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**STATE OF MAINE
118TH LEGISLATURE
SECOND REGULAR AND SPECIAL SESSIONS**

**Final Report
of the**

**COMMITTEE TO REVIEW
THE GOVERNANCE STRUCTURE
OF THE
GOVERNOR BAXTER SCHOOL FOR THE DEAF**

December 15, 1998

Members:

**Rep. Elizabeth Watson, Chair
Ms. Roxanne Baker
Mr. Travis Brougham
Ms. Pamela Brown
Ms. Sandra Carraher
Ms. Pamela Chernesky
Mr. Jonathan A. Connick
Mr. Dale A. Douglass
Ms. Phyllis Gardiner
Ms. Judith Gayton
Mr. Charles A. Jacobs
Mr. Ralph Knoll
Mr. David Latulippe
Mr. J. Roderick MacInnes
Ms. Jean McManamy
Mr. William H. Nye
Mr. John S. Paddock
Ms. Deborah Peck
Mr. Aaron Rugh
Mr. David N. Stockford**

Study Committee Staff:

**Phillip D. McCarthy, Ed.D., Legislative Analyst
Deborah C. Friedman, Esq., Legislative Analyst**

**Office of Policy & Legal Analysis
13 State House Station
Augusta, Maine 04333**

**COMMITTEE TO REVIEW THE GOVERNANCE STRUCTURE
OF THE GOVERNOR BAXTER SCHOOL FOR THE DEAF**

Table of Contents

	Page
Vision Statement of the Governor Baxter School for the Deaf.....	i
Executive Summary	ii
I. Introduction.....	1
II. Background	3
III. Conclusions and Recommendations	11

Appendices

- A. Enabling Legislation (Public Law 1995, chapter 676, § 11, sub-§§ 11 and 12)
- B. Education Committee Action Creating the Governance Review Committee
- C. GBSD Governance Review Committee Membership
- D. Agreement for Administrative Assistance Between DOE and GBSD School Board
- E. Meeting Summaries of GBSD Governance Review Committee
- F. Governance Powers and Duties: Governor Baxter School for the Deaf
- G. Comparison of Governance Powers and Duties: Governor Baxter School for the Deaf, Public School Boards and Maine School of Science & Mathematics
- H. Recommendations of Budget & Personnel Sub-Committee
- I. Examples of Different Types of Governance Structures of Schools for the Deaf
- J. Private & Special Law Creating the Maine School for the Deaf (1897)
- K. Explanation of the Management of Mackworth Island; including Deeds and Resolves Granting Mackworth Island to the State of Maine and Creating the Governor Baxter School for the Deaf
- L. Explanation of Personnel Matters at the Baxter School
- M. Explanation of School Board Membership on the GBSD School Board
- N. Examples of State Entities with Some Degree of Independence
- O. Possible Scenarios for Change in Governor Baxter School for the Deaf Governance

Governor Baxter School for the Deaf

Vision Statement

Governor Baxter School for the Deaf is a statewide community of students, parents, personnel, alumni, and other advocates. GBSD honors and respects each student as a unique and whole person.

We dedicate ourselves to providing a diverse learning environment which will assure that each student . . .

- is held accountable to his/her highest expectations for academic achievement and personal responsibility;
- has the opportunity to grow to his/her fullest potential intellectually, linguistically, emotionally, socially, physically, and culturally;
- is nurtured appropriately to develop a sense of respect for self and others;
- is provided the motivation and skills to make learning a life-long experience;
- is involved in and encouraged to appreciate the distinct characteristics of Deaf Culture;
- will contribute positively and successfully in his/her school, local, and global communities.

*Vision statement approved by the
School Board of the Governor Baxter School for the Deaf on May 14, 1998*

Executive Summary

In 1996, the Maine Legislature enacted a law that shifted authority to govern operations of the Governor Baxter School for the Deaf from the Maine Department of Education (DOE) to a newly-created School Board at the Baxter School. As part of that law, the Joint Standing Committee on Education and Cultural Affairs (Education Committee) was directed to establish a study committee to review the transition to the new governance structure and to report back to the Education Committee by December 15, 1998. The Education Committee established the Committee to Review the Governance Structure of the Governor Baxter School for the Deaf (Governance Review Committee), a 20-member committee chaired by Representative Elizabeth Watson.

To begin its review, the committee familiarized itself with the current systems for governing and operating the school, including the roles of the school board, the Department of Education, the Department of Administrative and Financial Services, the Office of the Attorney General and the Department of Conservation. The committee also discussed current governance issues relating to budget and finance, personnel, legal representation, facilities and property management, and the provision of statewide outreach programs and services to deaf and hard-of-hearing children. The discussions revealed several aspects of the current governance system that make it difficult for the school to efficiently and effectively provide the best programs possible: the complexity and inflexibility of the state personnel systems, the division of authority over property management, the lack of authority for the school board to use funds to provide needed services, and the need to request state funds two school years before actual budget needs are known.

After discussing these issues among themselves and with representatives of the state departments that share governance and operational powers, the committee came to two major conclusions about governance of the school. First, that some steps can be taken within the current governance system to solve some of the school's most immediate problems. Second, that even with some tailoring, the current governance system cannot be made to fit the school board's need to effectively and efficiently govern the school. A new governance system must be created to give the school greater autonomy in managing its affairs.

Recommendations

The GBSD Governance Review Committee unanimously recommends* :

* Committee members Pam Brown and Aaron Rugh were absent from the meeting at which recommendations were approved. The Office of the Attorney General limited its participation on the committee to non-voting status and therefore did not participate in voting on recommendations.

1. That the school board and the state immediately take steps available within the current personnel and budget system to address personnel needs until a redesigned governance system is in place.

Among the most pressing personnel needs at the school are: (1) the need to offer salaries sufficient to attract and retain a qualified superintendent and principal and qualified teachers and other professional staff; (2) the ability to hire substitute teachers and other staff and to hire temporary staff to provide specialized therapeutic and clinical services; (3) the need for better training, development, recruitment and placement of teachers of the deaf and other educational personnel at the GBSD; and (4) the need for incentives for staff to develop bi-lingual competency (American Sign Language (ASL) and English). With the assistance of the Department of Administrative and Financial Services, the committee concluded that, although the school board is not able to solve these problems on its own, there are steps that can be taken within the current state system to address these needs. The committee recommends:

A. That the school board develop and submit a supplemental budget request to the governor to increase the salary for the superintendent position to a nationally-competitive level;

B. That the school board work with DAFS to determine whether the recruitment and retention problems experienced by the school are sufficient to justify an adjustment to salaries for the principal, teachers and other professional educational personnel to more appropriate levels;

C. That the school board work with DAFS to designate currently-authorized positions as positions that can be used to hire temporary service providers;

D. That the school board work with DAFS to prepare and submit a supplemental budget request to the Governor to better provide staff and funding for temporary service needs;

E. That the Department of Education and the State Board of Education review existing certification standards for teachers of the deaf and other professional educational staff to determine whether there are more appropriate ways to measure competency in providing deaf education;

F. That the school board work with the Department of Education to develop plans for improving preparation and development of teachers of the deaf and other professional educational personnel; and

G. That the school board work with the Department of Administrative and Financial Services to create an incentive program to provide stipends to staff to develop the bi-lingual competency.

2. That the budget system be revised to give the GBSD school board flexibility to move money around within its budget without legislative approval and that the board be authorized to submit a supplemental budget request to the Legislature at the beginning of the second year of each biennium.

Under current law and practice, the budget bill enacted by the Legislature specifies the number and type of staff positions that an agency may fill, the dollars that may be spent to pay for personal services, capital expenses and all other expenses. The GBSD school board is not authorized to increase or change the authorized staff positions, even if it has sufficient funds to support the change. Nor is it authorized to use unexpended funds in the “all other” account to pay for needed personal services.

This system is particularly difficult for the Baxter School. The need for specialized personnel to provide services to its students may not be known at the time the school submits its budget to the Governor, which is almost a year before the beginning of the school year to be funded by that budget. Although there are mechanisms within the current system for receiving approval for some changes within the system, the school board feels it is appropriate and necessary for them to be able to make such changes without delay. An amendment to the law allowing for flexibility with some or all of the budget would enable the school to govern the operations of the school more effectively.

The school board also seeks specific authority to submit legislation at the beginning of the second year of the biennium to reflect changes needed for the next school year to meet the Individual Educational Program needs of Baxter School students. It is too difficult to plan 2 years ahead in a school budget without knowing how many students will attend the school, and the specific needs of those students who are designated as exceptional students under federal and state laws.

3. That a study group be established immediately to design a more autonomous governance system for the school, that resources be dedicated to helping the school develop capacity to be more autonomous, and that legislation creating the new governance system be developed for introduction to the Second Regular Session of the 119th Legislature.

The Governor Baxter School for the Deaf is a unique institution in Maine -- a state-funded school for the deaf and hard-of-hearing, with a statewide obligation and role to help local schools educate deaf and hard-of-hearing children and a critical role as the centerpiece of Deaf Culture in the State. To take best advantage of its unique features, the school needs a governance system and management powers that reflect the school’s unique status.

Although the committee did not have time to propose a design for this unique system, it did endorse several principles to be met by the new system:

- A school board with legitimate authority to develop policy for the school that is consistent with State and federal laws and regulations;
- Lump sum budget with flexibility to transfer money as needed;
- Personnel not subject to of the state personnel classification system;
- School board duty to negotiate directly with employee unions; and
- Employee benefits to be defined (e.g., health and retirement benefits).

The committee recommends that a group be formed immediately to define a new governance system and to help the Baxter School develop the capacity to implement a system that is more autonomous from the State than the current governance system. The group should be appointed by the Legislature, must represent all interested parties, must begin its work immediately and must report back to the Legislature by December 1, 1999.

The charge to the new committee would be to:

1. Define the basic structure of the new governance system and answer the questions: What does it mean for the school to have autonomy from state government? What are the roles and responsibilities of the school board, school administrators and state agencies? The answers to these questions will determine the extent to which the provisions in the existing Agreement for Administrative Assistance will need to renewed or renegotiated by the Department of Education and the GBSD School Board;
2. Identify the resources needed for the school board to develop the capacity to perform functions that the school would take over from state agencies, such as personnel and budget management functions. This may involve securing additional staff for the school to strengthen its personnel management capacity. If the GBSD School Board is to bargain directly with employee unions and is to address employee relations issues (e.g., grievance proceedings), the Baxter School must build the capacity to undertake these functions as well;
3. Develop a plan to address the recommendations from the Basic School Approval review and any other necessary reviews, such as a review of the residential program. The Department of Education is performing a Basic School Approval review process this year and will have results ready in January, 1999. Governance Review Committee members and members of the public stressed the need for a comprehensive review of the residential program at the school. A plan to address the results of these reviews should be developed and factored into the planning for transition to a new governance system;

4. Consult with GBSD employees and their representatives so that their interests can be taken into account in designing a new governance system. Employees have an interest in the potential for changes in salary, benefits and working conditions. Planners must take into account existing employee rights under union contracts or state law that may impact the timing or scope of change that may occur at the school;
5. Develop strategies for properly managing state-owned facilities and the natural resources of the island. What role, if any, should state agencies play in managing school property and Mackworth island? What improvements are needed in the school's physical plant, and who should make the improvements? The deed from Governor Baxter granting Mackworth Island to the State requires the island to be used and managed in a certain way. Should a state agency continue to be involved in managing the island or only in overseeing the school's compliance?;
6. Hire an impartial consultant to help the school, the Department of Education and other state agencies to redefine their roles and shift responsibilities;
7. Establish benchmarks to measure the school's progress toward a more autonomous governance system and require that the consultant, the school and the Department of Education make progress reports to interested parties, including the Legislative committee with jurisdiction over education matters. This gives interested parties an opportunity to give input on the change; and
8. Draft legislation to create the new governance system in Maine law. The legislation should be ready for submission to the Second Regular Session of the 119th Legislature, with an implementation date of July 1, 2000.

I. Introduction

In 1996, legislation enacted by the Maine Legislature changed the governance structure of the Governor Baxter School for the Deaf (GBSD). Public Law 1995, chapter 676, (also known as Legislative Document 505, An Act to Implement the Recommendations of the Committee to Study the Operations of the Governor Baxter School for the Deaf), shifted the authority to administer operations of the GBSD from the Maine Department of Education (DOE) to a newly-created School Board at the Baxter School. As part of that law, the Joint Standing Committee on Education and Cultural Affairs (Education Committee) was authorized to establish a committee to review the transition to a new governance structure for the GBSD and to report back to the Education Committee by December 15, 1998 (see Appendix A).

The Education Committee held two public meetings with representatives from the DOE and the GBSD to assess the status of the transition process already underway and to review the provisions included in the current “Agreement for Administrative Assistance” signed by the Department and the Baxter School. The Education Committee established the Committee to Review the Governance Structure of the Governor Baxter School for the Deaf (Governance Review Committee) comprised of 20 members that would be chaired by a member of the Education Committee who was appointed jointly by the Chairpersons of the Education Committee (see Appendices B and C). Pursuant to Public Law 1995, chapter 676, § 11, sub-~~§§~~ 11 and 12, the Governance Review Committee was authorized to review the new governance structure of the GBSD, including the current “Agreement for Administrative Assistance” executed between the Department and the Baxter School (see Appendix D).

The Governance Review Committee was authorized to meet four times to conduct its review of the fundamental state and education policy issues that are involved in the transition to a new governance structure for the Baxter School. Policy issues to be reviewed included, but were not limited to, the following matters: budget and finance, personnel, legal representation, facilities and property management, and the provision of statewide outreach programs and services to deaf and hard-of-hearing children. The Governance Review Committee was also authorized to present its findings and make recommendations for the provision of administrative assistance for the period beginning July 1, 1999.

Representative Elizabeth Watson was appointed to serve as chairperson of the Governance Review Committee. The Governance Review Committee was convened on August 19, 1998 at the GBSD campus on Mackworth Island. Committee staff provided a summary of the powers and duties of the key participants in the governance of the GBSD and reviewed the Agreement for Administrative Assistance between the GBSD School Board and the Department of Education. Committee members identified issues and concerns related to the following categories: role of the school board; personnel;

curriculum; educational programs and services; residential program funding; safety and security; and the role of the state (see meeting summaries in Appendix E).

The full committee met three additional times on September 9, October 21 and November 23. Committee members discussed problems, possible causes and potential solutions, reviewed the governance powers and duties of the GBSD School Board compared to the school board of a local education agency and the Board of Trustees of the Maine School for Science and Mathematics (see Appendices F and G) and considered the governance structures of comparable schools for the deaf in other states.

At its September 9th meeting, the committee established a subcommittee to find ways to meet some of the immediate personnel and budget needs of the school. Administration and Financial Services Commissioner Janet Waldron convened a group of high-level staff from her department to work with the subcommittee. Before meeting with the full subcommittee, DAFS staff met with GBSD Superintendent Roy Bishop, Business Manager Dennis Lawley, School Board members John Paddock and Jonathan Connick, and Representative Watson to clarify problems that needed to be resolved. The subcommittee then met and unanimously approved a set of recommended action steps to be taken by DAFS staff and the school to solve some immediate problems, such as the need to provide for substitute staff. The report of the subcommittee to the full review committee is found in Appendix H.

During its third meeting, the committee heard public testimony and received information from consultants under contract with the Department of Education. Dr. Doin Hicks and Dr. Gaylen Pugh, both expert in deaf education issues, worked with Commission staff to collect and analyze governance, program and budget information from other states (see Appendix I).

The final committee meeting was a work session devoted to reviewing preliminary findings and recommendations and coming to agreement on the final report to be presented to the 119th Legislature.

II. Background

A. History of the Governor Baxter School

The Maine School for the Deaf, predecessor of the Governor Baxter School, was created by private and special law in 1897 (see Appendix J). This school was located in Portland and governed by a 5-member Board of Trustees, appointed by the governor, with advice and consent of the Executive Council. The Executive Council was a 7-member board elected annually by the Legislature.

Governance of the school was moved from the Board of Trustees to the state Department of Health and Welfare, Bureau of Institutional Service in 1933. The Department obtained power previously held by the Board of Trustees to employ staff and determine the educational system. By 1944, the bureau had become a separate department called the Department of Institutional Service (which regulated correctional institutions, insane hospitals, children's homes and the school for the deaf), and later the Department of Mental Health and Corrections.

The Governor Baxter School for the Deaf was created in the 1950's with a gift from former Governor Percival Baxter. In 1943, Governor Baxter deeded Mackworth Island to the State to be used for state public purposes (see Appendix K). At that time, he had explained that the use of the island for children "would be especially pleasing." He donated \$625,000 to the state in 1953 to enable the state to build a school for the deaf on Mackworth Island and a bridge connecting the island to the mainland in Falmouth. The island had been granted to the state with the conditions that it be used for state public purposes, that the state maintain the animal cemetery on the island and that the island be maintained as a sanctuary for wild animals. When the new school was created, the Department of Mental Health and Corrections was in charge of governance.

In 1972, the Baxter School was placed under jurisdiction of the Department of Education, and a 1975 revision of state laws specifically gave the department power to employ staff and determine the educational program for the school. A 7-member Policy Review Board was created in 1983 to advise the commissioner and the school's superintendent on policy issues, to review development and implementation of policy by the superintendent and commissioner, to review staff recruitment, retention, promotion and evaluation and to meet with parents, students and other interested parties to solicit opinions about the school. The board was appointed by the governor.

In 1994, the Legislature created a 10-member committee to study the administrative structure, operations, and physical plant of the school and to make recommendations for improved operations and management of the school. Although the recommendation of the committee regarding governance of the school was not adopted in full, some change in governance structure did occur. A school board was created and given authority to manage the school. The Department of Education provides

administrative assistance pursuant to a written agreement, but has no authority or responsibility for operation of the school.

B. Current Governance of the Baxter School

Under current law, authority over important issues affecting the Governor Baxter School for the Deaf is divided among the school board and a number of state agencies, including the Department of Education, the Department of Administrative and Financial Services, the Department of the Attorney General and the Department of Conservation.

School Board of the Governor Baxter School for the Deaf.

The school board has 13 voting members and 2 nonvoting members, all appointed by the governor. Membership on the school board includes parents of students at the school, deaf representatives of the state's deaf community, persons with experience in deaf education, members of the general public, students who are nonvoting members and a parent of a child in the outreach program. Currently, the board meets twice a month.

By law, the school board has power to adopt policy for operation of the school, hire a superintendent, prepare an annual budget and exercise budgetary responsibility, and create, maintain and expand programs at the school. However, few of those powers are exercised without the approval, agreement or involvement of one or more state agencies (as shown by the chart in Appendix F).

Department of Education.

The Department of Education is not directly involved in governance of the school. In contrast to its role prior to the passage of LD 505, the Department has no authority over employment of teachers and other employees or the course of study to be pursued at the school. The Department is directed by state law to provide administrative assistance to the school by reviewing and forwarding personnel and budget documents to the appropriate state agency. This assistance is given pursuant to an administrative agreement that expires June 30, 1999. The review committee is charged with recommending what, if any, administrative assistance the department should provide to the school after June 30, 1999. In addition, pursuant to the collective bargaining agreement, the Department of Education works to resolve employee grievances under the collective bargaining contract.

The Department also regulates Baxter School operations through its statewide role in setting teacher certification requirements and oversight of special education programs. The Department is the agency responsible under federal law for ensuring that schools comply with the requirements of the Individuals with Disabilities Education Act (IDEA). That is the law that requires educational agencies to provide deaf and hard-of-hearing children with a "free appropriate public education" in the "least restrictive environment."

Department of Administrative and Financial Services.

The Department of Administrative and Financial Services provides personnel, purchasing, employee benefit, budgetary and other administrative services to all state executive agencies.

- Bureau of Human Resources (BHR) -- The employees of GBSD are state employees, subject to the Civil Service laws, the state job classification system and the state compensation plan. This means that the BHR categorizes, evaluates and assigns each position to a pay range in the state compensation system. This classification and compensation system is the state's attempt to ensure consistency in pay across state agencies. If an agency needs to fill a type of position that is not included in the classification system, the agency must work with the BHR to classify and assign that position to a pay range. The BHR is also the bureau that works with an agency to determine whether a recruitment/retention stipend is warranted.

This bureau also screens applicants for jobs that are within the competitive hiring class of employees, such as maintenance staff. For these jobs, the agency must hire persons from a list of eligible candidates developed by the bureau. Most of the teachers and other professional staff at the Baxter School are not hired through the competitive process, but are hired directly by the Baxter School.

- Bureau of Employee Relations (BER) -- As with any state agency whose employees are included in the state employee collective bargaining unit, the BER negotiates the union contract on behalf of state government as the employer. This is generally not done with a specific eye to the needs of the GBSD. The BER also advises state agencies, subject to the contracts, on questions related to implementing the contract and represents state agencies in grievance arbitration, in matters before the Maine Labor Relations Board and in related court proceedings.
- Bureau of the Budget -- This bureau assists state agencies and the Governor in analyzing and preparing the state budget. The bureau also processes, oversees agency spending and establishes requirements for submission of proposed budgets.
- Bureau of General Services -- This bureau manages state property, including the grounds and buildings at the Baxter School. The bureau also includes the division that authorizes and regulates purchases and contracts entered into by state agencies.

Department of the Attorney General

The Department of the Attorney General provides legal services to all state agencies, including the Governor Baxter School for the Deaf. Attorneys from the office represent the State in court in all actions where the State is a party. The school may request answers to specific legal questions and may use the services of the office in responding to complaints by parents under the IDEA.

Department of Conservation

The Department of Conservation manages the island to comply with the conditions imposed in the deed granting the island to the State by Governor Baxter. The deed giving the island to the State provided that the grant was conditioned, among other things, on the State's maintaining a small animal cemetery on the island, using the island for state public purposes only, and maintaining the island and surrounding waters as a sanctuary for wild beasts and birds.

In a transfer agreement signed June 29, 1992, the Department of Education transferred responsibility for the management of the natural resources of Mackworth Island to the Department of Conservation. The agreement directs the Bureau of Public Lands to work closely with the administration of the Baxter School in exercising management of the natural resources of the island.

C. Problems with the Current Governance of the Baxter School

The review committee generally agrees that the governance structure created by LD 505 has not solved the Baxter School's problems.

The people who are served by the Governor Baxter School, its administrators and staff do not feel that they have gained the control needed to properly manage the school. Although the law gives the school board authority to hire staff and manage the school, the board's exercise of that authority is hampered by its need to work through and comply with numerous state administrative laws and bureaucracies that are not designed to meet the needs of an educational institution.

At the same time, the Department of Education is uncomfortable with its diminished ability to affect the education and safety of students at the Baxter School and the educational opportunities available to all persons served by the Baxter School across the State.

Problems cited with the current structure include the following:

- Hiring of Superintendent and Principal -- The current manner of hiring the superintendent of the Baxter School has not resulted in the hiring of a permanent, qualified superintendent (see Appendix L). According to

school board members, the salary offered for the superintendent position is too low to compete for applicants on a national level. The salary for superintendent is \$55,000 and is set by the Bureau of Human Resources using the standard job evaluation methodology used to set the salary for the vast majority of state positions. Although there are methods to make “out of policy” salary adjustments to meet special recruitment or retention problems, this standard salary setting methodology does routinely consider specialized labor market conditions. The school board has the duty of selecting the superintendent and wishes to have greater discretion in determining an appropriate salary. Although the state personnel system does provide for the payment of a stipend in situations such as this, an agency that wishes to pay a so-called “recruitment/retention stipend” must provide evidence to the state Bureau of Human Resources every 2 years to continue the stipend. The GBSD board would prefer to determine the salary on its own. Recruiting and retaining a qualified school principal has suffered from similar problems.

- Substitute staff -- At the time of the review committee’s meetings, the Baxter School had no ability to hire substitute teachers or substitutes for other staff, because no positions had been established in the state personnel system. As a consequence, for example, the committee member who is an art teacher at the school has to rely on the goodwill of other teachers to cover her classes for her so that she can attend study meetings. As described below, the BHR is working with the school to create such positions. However, this is an example of how current administrative systems and their use by the GBSD board have not dealt directly with the needs of this special purpose state school.
- Interpreters -- There is not currently a position in the state personnel classification system for an interpreter, a critical component of the educational system at the Baxter School. Interpreters are needed to help hearing parents of deaf students meet with teachers and administrators, and to help hearing administrators and deaf students, staff and parents communicate.
- School Board Vacancies and Composition -- State law specifies the composition of the School Board of the Baxter School (see Appendix M). The Governor must appoint persons who meet the criteria set forth in the statute, rather than appointing persons on the basis of their general expertise or qualifications. Recent vacancies on the school board went unfilled for many months, leaving the board with barely the minimum quorum required for taking official action. In addition, some members of the review committee expressed the concern that the school board does not fully understand the needs of the deaf

community, and that more deaf members need to be appointed to the school board.

- **Teacher Qualifications** -- The GBSD faculty currently lacks a sufficient number of certified teachers who are qualified to be teachers of deaf and hard of hearing students. According to state law and regulations, GBSD must hire teachers that have met the state standards for teacher certification, including the National Teacher Examination. Baxter School officials and teachers believe that nationally-recognized standards for teachers of deaf and hard of hearing students may be more relevant than state certification standards. Many teachers at the school do not possess appropriate competencies to communicate with deaf and hard of hearing students using American Sign Language (ASL). The school board believes that to implement the bi-cultural, bi-lingual policy adopted for the GBSD, teachers must be able to achieve ASL proficiency standards in order to provide quality educational programs for GBSD students.
- **Individualized Education Program (IEP) and budget planning** -- The timing of state budget decisions does not allow planning for the needs of GBSD students. Individual education plans, required for all exceptional students by the IDEA, are developed prior to the student's placement at the GBSD and determine what staff and other services are needed for each child. If a student's IEP calls for a certain educational or therapeutic service and there is no such staff person available at the GBSD, the school must either contract for the service provider (at a higher cost) or do without -- a violation of the IDEA. Following a review of contracting practices at the school, the Internal Revenue Service found that certain individual providers who were under contract had to be formally employed by the GBSD to comply with state and federal employment and payroll requirements. The BHR is also helping the school create positions in the upcoming budget cycle to provide for necessary service providers. A budget that allowed for greater flexibility would enable the school to meet those needs without getting legislative approval.
- **Legal services** -- As a state agency, the school is required to use the legal services of the Office of the Attorney General, and may hire outside counsel only if the Attorney General consents. School board members feel that the attorneys in that office have too many responsibilities to devote primary attention to the school and that they do not receive the attention they need. Representatives of the Office of Attorney General disagree, reporting that they have spent significant amounts of time on legal matters for the school.

A second concern is the potential for a conflict of interest in situations where the Office of the Attorney General represents both the Department of Education and the school in legal matters where the two have competing interests. For example, if a parent files a complaint that Baxter school is not providing the services called for in his or her child's IEP, the Department may side with the parent against the school. In such cases, the Attorney General assigns an attorney to represent each interest, a method of resolving competing interests that has been allowed by the Maine Supreme Court in other situations. But in such cases, the school board would like to have its own legal counsel.

The purpose behind the state law requiring that all legal services be provided or approved by the Attorney General is to ensure consistency in legal services and legal arguments among state agencies, to maximize the use of state resources and to provide governmental entities with lawyers having expertise in laws relating to their jurisdictions. Where there is truly a legally recognized conflict of interest, the Office of the Attorney General does authorize the hiring of independent counsel.

- Property management -- The Governor Baxter school board does not have exclusive control of the island on which the school is situated or the buildings it occupies (see Appendix K). The island and property located on it are owned by the state and managed by a trio of entities: the Baxter School itself, the Department of Conservation (DOC) and the Bureau of General Services (BGS). When Governor Baxter granted the island to the state, he did so on condition that the island be maintained as a sanctuary for wild beasts and birds. The DOC is charged with ensuring that maintenance, and also manages the use of the perimeter of the island. The public has access to the perimeter trail. This has caused concern for the school, since there is no method to ensure that the public does not wander onto the school campus and disturb the children. Although there has been no trouble recently, in the past there were problems. There is a Baxter school staff person at the gate to the school, but no full-time DOC employee monitoring use of the island. The DOC has spent funds for maintenance and intends to do more, once land of Governor Baxter's in Colorado is sold, creating a trust fund to pay for greater maintenance efforts.

With regard to management of the grounds and buildings of the school, there is divided responsibility between the Bureau of General Services and the school. The school has some maintenance staff, but the BGS also provides services.

- Educational Program -- Many Governance Review Committee members believe that the recent change in governance structure has done nothing to alleviate concerns about the educational program at the school. Administrators, staff and school board members spend so much time and energy trying to solve immediate problems that they have been unable to dedicate time to development of curriculum and other educational matters. Among the educational program concerns remaining at the Baxter School are the following: lowered educational expectations, limited curricular offerings, lack of student assessment, residential student safety and security due to inadequate staffing levels in residence halls and lack of training for residential staff, and an insufficient number of faculty, resources and course offerings in the outreach programs.

III. Conclusions and Recommendations

A. Conclusions

The committee came to two major conclusions about governance of the school: first, that some steps can be taken within the current governance system to solve some of the school's most immediate problems; and second, that even with some tailoring, the current governance system cannot be made to fit the school board's need to effectively and efficiently govern the school. A new governance system must be created to give the school greater autonomy in managing its affairs.

As explained earlier (see Background, section C), the school board feels mired in the complexity of state personnel and budgeting systems in its attempts to provide some basic services at the school. As a result of meetings between school administrators, committee members and the DAFS, several mechanisms were identified within the current systems to meet some of the school's needs. Mechanisms that do not require legislative action or union negotiations were set into motion during the course of the study and continue to be developed. Others require approval of the legislature or unions before they can be implemented. Recommendation #1 summarizes those steps that can and should be taken to make the current governance system work better for GBSD.

Even with the recommended changes, the current governance system is not flexible enough for the Baxter School to properly fulfill its responsibilities. Committee members heard information from experts in deaf education about how other states manage schools for the deaf. They also heard about other state entities with flexibility, so-called "instrumentalities of the state" such as the Maine State Retirement System, Maine School of Science and Mathematics, University of Maine System and Maine Technical College System (see Appendix N).

The committee felt that they did not have sufficient time to determine the specific structure needed by the school, and therefore made the recommendation that another group be formed to make specific recommendations (see Appendix O). However, the committee did make a recommendation calling for more immediate attention: to give greater budget flexibility to the school. The committee also set forth some general principles that must be met by the new governance structure. These are set forth in Recommendation # 3.

B. Recommendations

The GBSD Governance Review Committee unanimously recommends* :

* Committee members Pam Brown and Aaron Rugh were absent from the meeting at which recommendations were approved. The Office of the Attorney General limited its participation on the committee to non-voting status and therefore did not participate in voting on recommendations.

1. That the school board and the state immediately take steps available within the current personnel/budget system to address personnel needs before a newly designed governance system takes effect.

As described earlier in this report, DAFS staff met with school board members, the superintendent, business manager of the Baxter School and with Governance Review Committee members to address some immediate personnel problems facing the school. The committee unanimously recommended that the following action steps be taken by school officials and DAFS staff to resolve these personnel issues:

- Recruitment and retention of qualified educational personnel -- The current manner of hiring the superintendent, principal and other professional educational personnel at the Baxter School has not resulted in the hiring of permanent, qualified leadership and constrains the hiring and retention of qualified professional educational personnel. Salaries offered for these professional positions may be set too low to compete for applicants on a national level. The school board should develop and submit a supplemental budget request for the upcoming biennium to the Governor that increases the salary range for the superintendent position. School officials should also work with the DAFS to review the applicability of the “severe recruitment / retention policy” with respect to the salary classification system in effect under the current collective bargaining agreement for the principal position, teachers of the Deaf and other appropriate professional educational personnel.
- Temporary and substitute staff -- As described earlier, the Bureau of Human Resources is working with the Baxter School to enhance the ability of school officials to hire substitute teachers, substitutes for other staff positions and temporary therapeutic and clinical service providers. The school board should continue to work with DAFS staff to designate an appropriate number of its currently-authorized positions as intermittent “project” or “limited period” positions so that the GBSD can provide therapeutic and clinical services for students in the current academic year. School officials should also work with the DAFS to prepare and submit a supplemental budget request for the upcoming biennium to the Governor that increases the full-time position headcount and provides the funds necessary to secure the number of intermittent positions necessary to provide an adequate level of temporary or substitute personnel staffing to meet the educational needs of GBSD students.
- Teacher qualifications -- Baxter School officials and teachers propose that nationally-recognized standards for teachers of Deaf and hard of hearing students may be more relevant than state certification standards, including the National Teacher Examination, in determining whether an individual is qualified to teach Deaf and hard of hearing students. According to state law and regulations, GBSD must hire teachers that have met the state standards for teacher certification. The Department of Education and State Board of

Education should conduct a review of existing certification standards for teachers of the Deaf and other professional educational personnel, and may recommend any necessary changes in the certification of teachers of the Deaf and professional educational personnel. This review should examine the participation and performance of teachers of the Deaf on the National Teacher Examination. The review should also consider alternative certification standards and practices that may be appropriate for the teachers of the Deaf and other professional educational personnel (e.g., the Council for Exceptional Children (CEC) / Council on Education of the Deaf (CED) Joint Knowledge and Skill Statements for All Beginning Teachers of Students who are Deaf or Hard of Hearing in the “Deaf and Hard of Hearing Students: Educational Service Guidelines”, National Association of State Directors of Special Education, 1994).

The school board and the Department of Education should work together with Gallaudet University, other postsecondary educational institutions for the Deaf and postsecondary educational institutions in Maine to develop a comprehensive plan that provides for the preparation and professional development of teachers of the Deaf and other professional educational personnel for the GBSD. The comprehensive plan may include the establishment of an agreement with Gallaudet University, the National Technical Institute for the Deaf or other postsecondary educational institutions for the Deaf to develop a distance-learning or outreach program for the training, development, recruitment or placement of teachers of the Deaf and other professional educational personnel who aspire to serve as administrators at the GBSD.

- Bi-lingual competencies -- The school board believes that to implement the bi-lingual, bi-cultural policy adopted for the GBSD, teachers of the Deaf and other appropriate educational personnel must be able to achieve competency in both ASL and the English language in order to provide quality educational programs and services for GBSD students. Many educators at the school do not possess appropriate bi-lingual competencies to effectively communicate with Deaf and hard of hearing students. The School Board should work with the DAFS to create an incentive program that provides a stipend to teachers of the Deaf and appropriate educational personnel for achieving ASL and English language proficiency standards established by the School Board.

2. That the budget system be revised to give the GBSD school board flexibility to move money around within its budget without legislative approval and that the board be authorized to submit a supplemental budget request to the Legislature at the beginning of the second year of the biennium.

Under current law and practice, the budget bill enacted by the Legislature specifies the number and type of staff positions that an agency may fill, the dollars that may be

spent to pay for personal services, capital expenses and all other expenses. The GBSD school board is not authorized to increase or change the authorized staff positions, even if it has sufficient funds to support the change. Nor is it authorized to use unexpended funds in the “all other” account to pay for needed personal services.

This system is particularly difficult for the Baxter School. The need for specialized personnel to provide services to its students may not be known at the time the school submits its budget to the Governor, which is almost a year before the beginning of the school year to be funded by that budget. Although there are mechanisms within the current system for receiving approval for some changes within the system, the school board feels it is appropriate and necessary for them to be able to make such changes without delay. An amendment to the law allowing for flexibility with some or all of the budget would enable the school to govern the operations of the school more effectively.

The school board would also like specific authority to submit legislation at the beginning of the second year of the biennium to reflect changes needed for the next school year to meet the Individual Educational Program needs of Baxter School students. It is too difficult to plan 2 years ahead in a school budget without knowing how many students will attend the school, and the specific needs of those students who are designated as exceptional students under federal and state laws.

3. That a study group be established immediately to design a more autonomous governance system for the school, that resources be dedicated to helping the school develop capacity to be more autonomous, and that legislation creating the new governance system be developed for introduction to the Second Regular Session of the 119th Legislature.

The Governor Baxter School for the Deaf is a unique institution in Maine -- a state-funded school for the deaf and hard-of-hearing, with a statewide obligation and role to help local schools educate deaf and hard-of-hearing children and a critical role as the centerpiece of Deaf Culture in the State. To take best advantage of its unique features, the school needs a governance system and management powers that reflect the school’s unique status.

Although the committee did not have time to propose a design for this unique system, it did endorse several principles to be met by the new governance system:

- A school board with legitimate authority to develop policy for the school that is consistent with State and federal laws and regulations;
- Lump sum budget with flexibility to transfer money as needed;
- Personnel not subject to the state personnel classification system;
- School board duty to negotiate directly with employee unions; and

- Employee benefits to be defined (e.g., health and retirement benefits).

The committee recommends that a group be formed immediately to define a new governance system and to help the Baxter School develop the capacity to implement a system that is more autonomous from the State than the current governance system. The group should be appointed by the Legislature, must represent all interested parties, must begin its work immediately and must report back to the Legislature by December 1, 1999.

The charge to the new committee would be to:

1. Define the basic structure of the new governance system and answer the questions: What does it mean for the school to have autonomy from state government? What are the roles and responsibilities of the school board, school administrators and state agencies? The answers to these questions will determine the extent to which the provisions in the existing Agreement for Administrative Assistance will need to be renewed or renegotiated by the Department of Education and the GBSD School Board;
2. Identify the resources needed for the school board to develop the capacity to perform functions that the school would take over from state agencies, such as personnel and budget management functions. This may involve securing additional staff for the school to strengthen its personnel management capacity. If the GBSD School Board is to bargain directly with employee unions and is to address employee relations issues (e.g., grievance proceedings), the Baxter School must build the capacity to undertake these functions as well;
3. Develop a plan to address the recommendations from the Basic School Approval review and any other necessary reviews, such as a review of the residential program. The Department of Education is performing a Basic School Approval review process this year and will have results ready in January, 1999. Governance Review Committee members and members of the public stressed the need for a comprehensive review of the residential program at the school. A plan to address the results of these reviews should be developed and factored into the planning for transition to a new governance system;
4. Consult with GBSD employees and their representatives so that their interests can be taken into account in designing a new governance system. Employees have an interest in the potential for changes in salary, benefits and working conditions. Planners must take into account existing employee rights under union contracts or state law that may impact the timing or scope of change that may occur at the school;
5. Develop strategies for properly managing state-owned facilities and the natural resources of the island. What role, if any, should state agencies play in managing

school property and Mackworth island? What improvements are needed in the school's physical plant, and who should make the improvements? The deed from Governor Baxter granting Mackworth Island to the State requires the island to be used and managed in a certain way. Should a state agency continue to be involved in managing the island or only in overseeing the school's compliance?;

6. Hire an impartial consultant to help the school, the Department of Education and other state agencies to redefine their roles and shift responsibilities;

7. Establish benchmarks to measure the school's progress toward a more autonomous governance system and require that the consultant, the school and the Department of Education make progress reports to interested parties, including the Legislative committee with jurisdiction over education matters. This gives interested parties an opportunity to give input on the change; and

8. Draft legislation to create the new governance system in Maine law. The legislation should be ready for submission to the Second Regular Session of the 119th Legislature, with an implementation date of July 1, 2000.

C. Other Proposals That Merit Further Review

The following proposals were forwarded as potential recommendations during the review committee meetings, but were not explicitly approved by the committee at its final meeting. Three of these proposals deal with the manner in which the school board members are appointed. The final proposal addresses the governance roles and responsibilities of the school board and state agencies in managing state-owned facilities and the natural resources of Mackworth Island.

- That the Governor's appointments to the GBSD School Board should be reviewed and confirmed by the Legislature.
- That GBSD employees should be allowed to become members of the school board, with restrictions on voting if necessary to avoid a conflict of interest.
- That the law setting forth the quorum required to approve school board actions and school board votes on the budget be amended to take into account vacancies on the board.
- That the Department of Conservation formalize its relationship with GBSD School Board by meeting regularly with the board to discuss concerns.

These issues are included in the final report so that the Joint Standing Committee on Education and Cultural Affairs may consider these matters when it reviews those items that were recommended as directions to the next group that will study the re-design the governance system of the GBSD.

APPENDIX A

Enabling Legislation

(Public Law 1995, chapter 676, § 11, sub-§§ 11 and 12)



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.

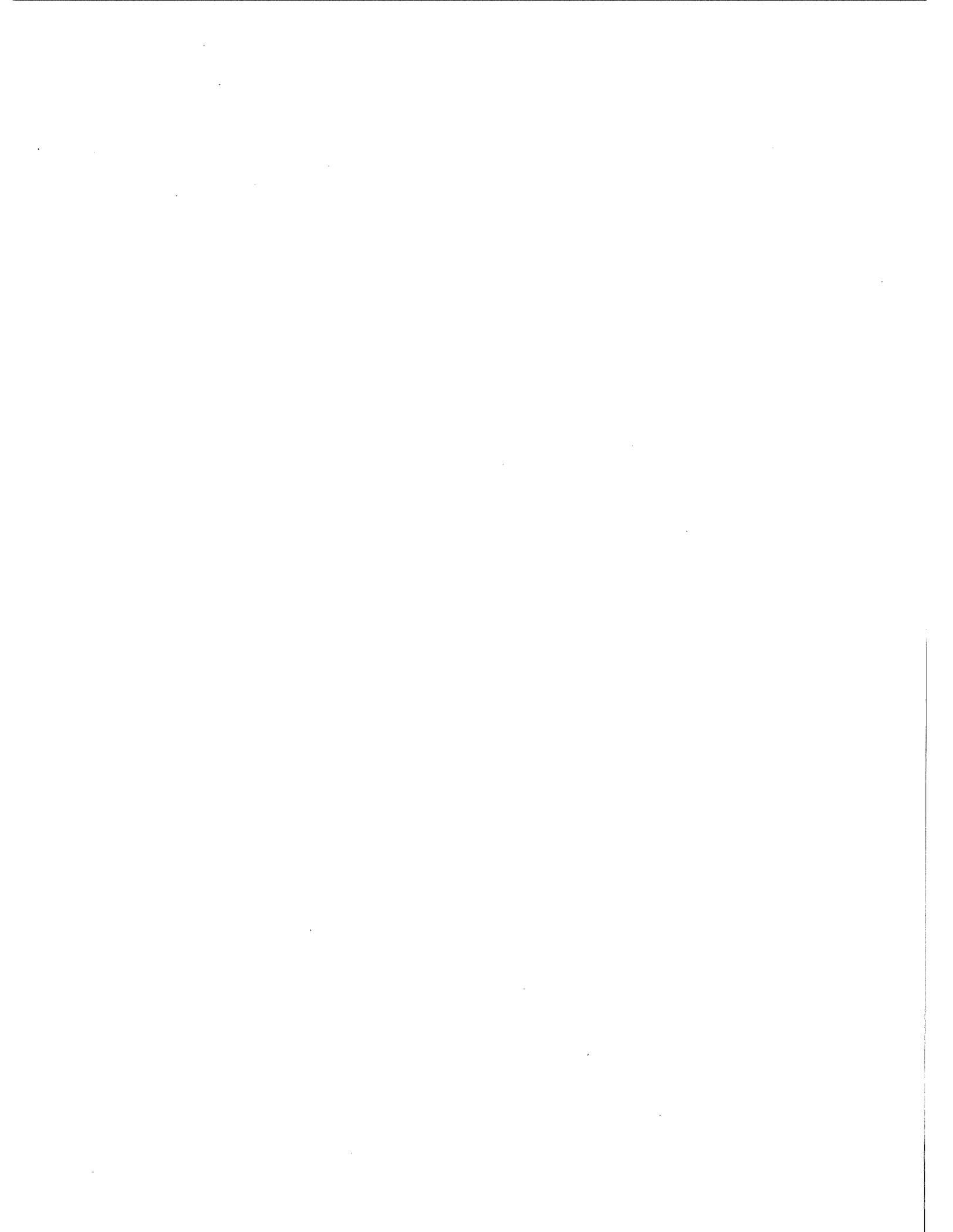
Sec. 12. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

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	



APPENDIX B

**Education Committee Action Creating the Governance Review
Committee**



Committee to Review the Governance Structure of the Governor Baxter School for the Deaf

Pursuant to P.L. 1995, c. 676, § 11, sub-§ § 11 and 12, the Joint Standing Committee on Education and Cultural Affairs establishes the Committee to Review the Governance Structure of the Governor Baxter School for the Deaf. The Education Committee voted unanimously to establish the Governance Review Committee subject to the following provisions:

1. The Committee to Review the Governance Structure of the Governor Baxter School for the Deaf shall consist of 20 members appointed as follows:

A. One Legislator, who must be member of the Joint Standing Committee on Education and Cultural Affairs and who will chair the Committee; to be appointed jointly by the Chairs of the Joint Standing Committee on Education and Cultural Affairs;

B. The Commissioner of Education, or a designee;

C. The Commissioner of Administrative and Financial Services, or a designee;

D. The Commissioner of Conservation, or a designee;

E. The Director of the Office of Employee Relations, or a designee;

F. The Attorney General, or a designee;

G. Four members representing the School Board of the Governor Baxter School for the Deaf, appointed by the School Board of the Baxter School;

H. One member who is a staff member at the Governor Baxter School for the Deaf, appointed jointly by the Superintendent and the School Board of the Baxter School;

I. One member who is a parent whose child attends the Governor Baxter School for the Deaf, appointed by of the Governor Baxter School for the Deaf Parents Association;

J. One member who is a student representing students attending the Governor Baxter School for the Deaf, appointed by the Governor Baxter School for the Deaf Student Council;

K. One member representing the deaf community in the state, appointed jointly by the Superintendent and the School Board of the Baxter School;

L. One member representing school administrators and school boards in the state, appointed by the Maine School Management Association;

M. One member representing teachers who are public school teachers in the State, appointed by the Maine Education Association;

N. One member representing directors of special education services in the State, appointed by the Maine Association of Directors of Services of Children with Exceptionalities;

O. One member representing state employees at the Governor Baxter School for the Deaf, appointed by the Maine State Employees Association;

P. One member representing state employees at the Governor Baxter School for the Deaf, appointed by the American Federation for State and County Municipal Employees; and

Q. The Town Manager of Falmouth, who shall serve as an ex-officio and non-voting member;

2. Appointments: The appointing authorities shall notify the Chairs of the Education Committee upon making their appointments. When the appointment of all members is complete, the Chairs of the Education Committee shall call and convene the first meeting of the Governance Review Committee no later than May 15, 1998;

3. Duties: Pursuant to Public Laws of 1995, Chapter 676, § 11, sub-~~§§~~ 11 and 12, the Governance Review Committee shall review the new governance structure of the Governor Baxter School for the Deaf, including the current agreement defining the provision of administrative assistance by the Department of Education to the Governor Baxter School for the Deaf. The Governance Review Committee shall present its findings and make recommendations for the provision of administrative assistance for the period beginning July 1, 1999;

4. Committee Meetings: In examining these governance issues, the Governance Review Committee shall make every reasonable effort to provide public access to the committee meetings, including providing interpreter services and utilizing the ATM Project Network;

5. Staffing Assistance: The chair of the Governance Review Committee may request staffing assistance from the Legislative Council of the Maine State Legislature; and

6. Report: The Governance Review Committee shall submit its report with findings and recommendations regarding the governance structure of the Governor Baxter School for the Deaf and the provision of administrative assistance for the period beginning July 1, 1999, to the joint standing committee having jurisdiction over educational and cultural affairs matters of the 119th Legislature by December 15, 1998.

APPENDIX C

GBSD Governance Review Committee Membership

**Committee to Review the Governance Structure
of the Governor Baxter School for the Deaf**
(Public Law 1995, c. 676, § 11, sub-§ § 11 and 12)

Committee Chair:

Rep. Elizabeth Watson	Representing the Joint Standing Committee on Education and Cultural Affairs
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Committee Members:

David N. Stockford, Special Education Director Department of Education	Representing the Commissioner of Education
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Charles A. Jacobs, Deputy Commissioner Department of Administrative & Financial Services	Representing the Commissioner of Administrative and Financial Services
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Ralph Knoll Bureau of Parks and Lands	Representing the Commissioner of Conservation
--	---

Sandra Carraher Bureau of Employee Relations	Representing the Director of the Office of Employee Relations
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Phyllis Gardiner Office of the Attorney General	Representing the Attorney General
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John S. Paddock, Chair, School Board of the Governor Baxter School for the Deaf	Representing the School Board of the Governor Baxter School for the Deaf
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Roxanne Baker, Vice Chair, School Board of the Governor Baxter School for the Deaf	Representing the School Board of the Governor Baxter School for the Deaf
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J. Roderick MacInnes, Member, School Board of the Governor Baxter School for the Deaf	Representing the School Board of the Governor Baxter School for the Deaf
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David Latulippe, Member, School Board of the Governor Baxter School for the Deaf	Representing the School Board of the Governor Baxter School for the Deaf
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William H. Nye	Representing the Staff at the Governor Baxter School for the Deaf
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Pamela Brown, Parent of Student at Governor Baxter School for the Deaf	Representing the Governor Baxter School for the Deaf Parents Association
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Travis Brougham, Senior Governor Baxter School for the Deaf	Representing the Students at the Governor Baxter School for the Deaf
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**Committee to Review the Governance Structure
of the Governor Baxter School for the Deaf**

page 2

Jonathan A. Connick, Executive Director
Maine Center on Deafness

Representing the Deaf Community

Dale A. Douglass, Executive Director
Maine School Management Association

Representing School Administrators and
School Boards

Jean "Nini" McManamy
Maine Education Association

Representing Teachers

Deborah Peck, Director of Special Education
Westbrook School Department

Representing Directors of Special Education
Services

Pamela Chernesky

Representing State Employees at the Governor
Baxter School for the Deaf (by MSEA)

Judith Gayton

Representing State Employees at the Governor
Baxter School for the Deaf (by AFSMCE)

Aaron Rugh

Representing Town of Falmouth

Committee Staff:

Deborah C. Friedman, Esq.
Legislative Analyst
Office of Policy and Legal Analysis

Phillip D. McCarthy, Ed. D.
Legislative Analyst
Office of Policy and Legal Analysis

APPENDIX D

**Agreement for Administrative Assistance Between DOE and GBSD
School Board**



AGREEMENT FOR ADMINISTRATIVE ASSISTANCE

The Department of Education and the School Board of the Governor Baxter School for the Deaf agree that the administrative assistance provided by the Department of Education to the Governor Baxter School for the Deaf will be as follows:

PERSONNEL

- The Department of Education will process personnel forms (review; forward for Commissioner's signature; forward to the Bureau of Human Resources) until June 30, 1999.
- The Department of Education will enter personnel data, per the personnel forms, on the Department's MFASIS Budget Management System until June 30, 1999.

BUDGET/FINANCE

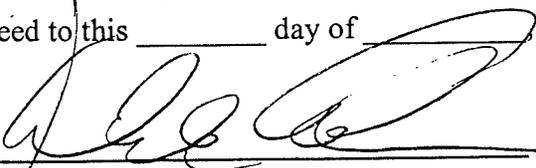
- The Department of Education will review payroll changes resulting from upgrades, reclassifications, evaluations, and other personnel actions taken by the School Board of the Governor Baxter School for the Deaf and will forward them to the Bureau of the Budget.
- The Department of Education will review the Governor Baxter School for the Deaf's annual budget, to be submitted to the Department before September 1 of each year, 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.
- The Department of Education will review all work programs, budget orders, and financial order requests and forward them to the Bureau of the Budget.

The Department of Education's responsibility is limited to the ministerial, pass through functions outlined in the Personnel and Budget/Finance sections above. During this period, the Department of Education will also provide technical assistance and guidance, in the areas of personnel and budget/finance described above, as well as in the area of instruction and curriculum, to the School Board and the Superintendent of the Governor Baxter School for the Deaf, upon the written request of the Governor Baxter School for the Deaf School Board or Superintendent.

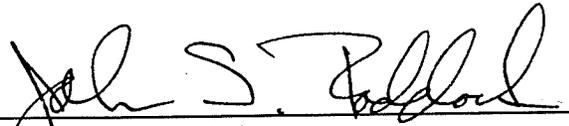
The School Board of the Governor Baxter School for the Deaf, as the policy-making and governing body of the school, is responsible for oversight of the operation and administration of the school and school facilities, including the hiring of the Superintendent and staff, budget development, educational programming, and the safety and welfare of all students. The School Board recognizes its obligation to comply with all federal and state laws and regulations, and all civil service rules and collective bargaining agreements, where applicable.

The Department of Education and the School Board of the Governor Baxter School for the Deaf acknowledge that the provision of administrative assistance by the Department during the period of this agreement, ending June 30, 1999, will be reviewed by the Review Committee established by the Joint Standing Committee sharing jurisdiction over education and cultural affairs, in accordance with P.L. 676. The parties agree that any assistance provided by the Department after June 30, 1999 will be the subject of a separate agreement, the terms of which must be consistent with the recommendations of the Review Committee.

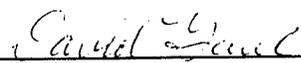
Agreed to this _____ day of _____ 1998 by the undersigned.



J. Duke Albanese, Commissioner
Department of Education



John Paddock, Chair
The School Board of the
Governor Baxter School for the Deaf



David Gaul, Superintendent
Governor Baxter School for the Deaf

APPENDIX E

Meeting Summaries of GBSD Governance Review Committee

**Committee to Review the Governance Structure of the
Governor Baxter School for the Deaf
Meeting Summary**

August 19, 1998

Members present: Roxanne Baker, Travis Brougham, Pamela Brown, Sandra Carraher, Pamela Chernesky, Jonathan Connick, Dale Douglass, Phyllis Gardiner, Judith Gayton, Ralph Knoll, David Latulippe, J. Roderick MacInnes, Nini McManamy, William Nye, John Paddock, Deborah Peck, David Stockford, Rep. Elizabeth Watson, Chair

Others present: Roy Bishop, Governor Baxter School for the Deaf; Mary Edgerton, Maine Center on Deafness; Deborah C. Friedman, Committee Staff; Jim Krieger, ASL Interpreter; Dennis Lawley, Governor Baxter School for the Deaf; Judy Malcolm, Department of Education; Phillip D. McCarthy, Committee Staff; Lori Reed, ASL Interpreter; Greg Scott, Department of Education

1. Convening of the Meeting, Welcome and Introductions

Representative Elizabeth Watson, Committee Chair, convened the meeting at 9:15 am. Rep. Watson welcomed Committee members and asked members, interpreters and interested parties to introduce themselves. Rep. Watson also reviewed ground rules for the committee process and announced that a public forum would be held during the committee's third meeting.

2. Background briefing

Phil McCarthy, Committee Staff, provided background information on the history of the study committee, including a legislative history of the GBSD, the 1994 Report of the Committee to Study the Operations of the GBSD and LD 505, the Education Committee's actions in establishing the GBSD Governance Review Committee, the current governance structure, and the Agreement for Administrative Assistance between the GBSD School Board and the Department of Education.

3. Committee Discussion of Goals, Concerns and Priorities

Deb Friedman, Committee Staff, facilitated a discussion of potential standards for evaluating the governance structure of the GBSD. Committee members identified issues and concerns related to the following categories: school board role, personnel, curriculum, educational programs and services; financial, safety and security / residential program, state role

4. Tour of the Governor Baxter School for the Deaf

Bill Nye, Coordinator of Community Relations, gave Committee members a tour of the Governor Baxter School for the Deaf and Mackworth Island.

5. Committee Discussion continued, Development of work plan

Phil McCarthy, Committee Staff, provided a summary of the powers and duties of the key players involved in the governance structure of the GBSD.

Deb Friedman, Committee Staff, summarized the Committee members discussion from the morning session, facilitated a discussion of issues that will be examined as part of the Committee's review and clarified requests for information for the upcoming committee meetings.

Rep. Watson indicated that the next Committee meeting would be held in Augusta on Wednesday, September 9, 1998, from 9 a.m. - 4 p.m. in State House, Room 228.

6. Adjournment

The Committee meeting adjourned at 4:15 pm.

**Committee to Review the Governance Structure of the
Governor Baxter School for the Deaf
Meeting Summary**

September 9, 1998

Members present: Roxanne Baker, Travis Brougham, Pamela Brown, Pamela Chernesky, Jonathan Connick, Dennis Doiron, Dale Douglass, Judith Gayton, Ralph Knoll, J. Roderick MacInnes, Nini McManamy, William Nye, John Paddock, Deborah Peck, David Stockford, Commissioner Janet Waldron, Rep. Elizabeth Watson, Chair

Others present: Shelley Flanders, ASL Interpreter; Deborah Friedman, Committee Staff; Jim Krieger, ASL Interpreter; Phillip McCarthy, Committee Staff; Pam Rosen, Department of Education; Greg Scott, Department of Education

1. Welcome, Overview and Ground Rules for the Meeting

Rep. Elizabeth Watson, Committee Chair, convened the meeting at 9:15 a.m., welcomed Committee members and reviewed ground rules for the committee meeting.

Rep. Watson announced that, due to Yom Kippur, the 3rd meeting of the Committee, originally set for September 30th, may need to be re-scheduled. Plans for the 3rd meeting also included a public forum that would be broadcast over several of the ATM network sites. Committee staff reported that a breakdown in contract negotiations with a new vendor for the ATM network has created some uncertainty regarding the capacity and features that will be available on the network. Bill Nye offered to provide technical assistance to Committee staff in using the ATM network to facilitate communication (particularly ASL interpretation) for the committee's next meeting.

2. Review information gathered and included in mailing - Q & A

Committee staff offered members the opportunity to review information mailed prior to the meeting. Several Commission members requested governance, program and budget information from other states. Bill Nye added the following groups to the list of entities that the GBSD has a contractual or other working relationship with: Department of Labor's Bureau of Rehabilitation Services (provides vocational rehabilitation services); the University of Maine's network of educators and technicians; "Maine Point" project at the University of Maine at Augusta; Maine Registry of Interpreters for the Deaf; Maine CITE program (provides ASL courses through the ATM network); and the Maine Association of the Deaf (provides advocacy for the deaf community).

3. Small group discussions of problems, possible causes and potential recommendations for solutions

Committee staff facilitated two small group discussions that focused on identifying potential recommendations to the problems identified by the Committee members at the August 19th Committee meeting.

4. Presentation of small group reports on potential recommendations

Roxanne Baker and Dale Douglass presented the small group reports from their respective groups (please see the attached summaries for these two reports).

5. Committee discussion: information requests and next steps in the development of preliminary recommendations

Commissioner Waldron proposed to establish a cross-departmental team of Department of Administration and Financial Services (DAFS) staff to meet with a budget and personnel sub-committee to address some of the budget and personnel matters identified by the Committee. Committee members agreed to establish a budget and personnel sub-committee to meet with DAFS staff. Roxanne Baker, Pam Chernesky, Jonathan Connick and Bill Nye agreed to serve on the sub-committee. The results of the sub-committee meeting will be reported to Committee members at the next full meeting of the Committee.

David Stockford proposed that the Department of Education would provide the resources necessary to review governance, program and budget information from other states. Committee members identified several states with exemplary deaf education programs and agreed to receive a report at the next full meeting of the Committee.

6. Adjournment

The meeting was adjourned at 3:45 p.m.

FACT - FINDING MEETING

Gov. Baxter School for the Deaf & Dept. Of Admin. & Financial Services

September 28, 1998

Meeting Summary

GBSD staff present: Roy Bishop, Superintendent; Dennis Lawley, Business Manager; Barbara Keefe, UNET Coordinator

DAFS Staff present: John Alden, Employee Relations; Sandy Carraher, Employee Relations; Diane Farrell, Budget; Dawna Lopatosky, Budget; Jack Nicholas, Budget; Dick Thompson, Purchases; Ken Walo, Employee Relations; Don Wills, Human Resources

GBSD Committee members and others present: Jonathan Connick, John Paddock, David Stockford, Rep. Elizabeth Watson, Chair; Phillip McCarthy, Committee Staff; Valerie Seaberg, Department of Education; Meryl Troop, ASL Interpreter

Background / Purpose of the meeting

Ken Walo and Don Wills welcomed all to the meeting. This fact-finding meeting was proposed by Commissioner Waldron to prepare a cross-departmental DAFS team to work with the GBSD Governance Review Committee sub-committee on budget and personnel matters. (see attached "For Budget and Personnel Sub-committee" document). At the Sept. 9th GBSD Governance Review Committee meeting, the Review Committee members accepted Commissioner Waldron's offer to establish a cross-departmental team to work with a sub-committee that will be reviewing short-term and long-term budget and personnel matters on Oct. 14th. The focus of the sub-committee will be:

- Short-term - first look at how GBSD fits or doesn't fit within state system, can needs such as hiring subs, interpreters, be handled within the current system?
- Long-term - then look at creating special responses to respond to operating parameters of GBSD

In preparation for the Oct. 14th subcommittee meeting, DAFS invited Superintendent Bishop and Business Manager Lawley to this fact-finding meeting to meet with DAFS staff to discuss specific budget and personnel issues and concerns. While Superintendent Bishop he stated that he was looking for short-term solutions to immediate problem situations at the school, Rep. Watson indicated that the Review Committee was also concerned with providing longer-term responses that would provide the GBSD policymakers with greater capacity to govern the operations of the school.

GBSD budget and personnel issues

The following items were reviewed and discussed at the fact-finding meeting:

A. How to quickly and effectively acquire necessary temporary and / or substitute personnel (i.e., teachers, residence advisors, secretaries, janitors, etc.)?

1. Can you explain the Project Employment memorandum (Civil Service memo #5.13 dated 9/18/98)? This memo reviewed the recent law established by the 118th Legislature granting the Governor to authorize the hiring of temporary employees for state agencies. Temporary "project" employees can be hired for periods of less than 12 months, while temporary "limited period" employees can be hired for periods greater than 12 months.

2. How can GBSD use the RFP (request for proposals) process for individual service providers (e.g., occupational therapists, speech therapists, etc.)? Due to a 1995 IRS audit of 1993 GBSD service contracts which found that GBSD "contractors" were "employees," a new approach must be taken regarding hiring service providers.

3. When staff member is out on administrative leave, how can we get a person in the position to get the work done? Current regulations allow state agencies to hire staff to serve in an "acting capacity" when an employee is on leave.

B. How to reorganize GBSD staff to attract and retain qualified staff?

1. Reclassify existing positions or eliminate one position in order to create another position? If a position is vacant, there are less obligations, Ken Walo and Don Wills can meet with GBSD to review each of these matters.

2. Increase existing salaries of superintendent, principal, and teachers? State law provides some flexibility under a "severe recruitment / retention policy. For the superintendent and / or principal, there may be a legislative solution by increasing salaries in the budget bill or other legislation. A collective bargaining solution may provide some salary flexibility when negotiating the next MSEA contract for teachers.

C. What procedures are recommended to implement performance appraisal program and progressive discipline policies?

Employee Relations and Human Resources staff can provide assistance on training and documentation required to establish performance appraisal program; Employee Relations staff can provide assistance on requirements for establishing progressive discipline policies.

D. How to require ASL proficiency as a condition of employment?

Qualifications and expectations for new hires; and proficiency standards, training and development for existing employees? Collective bargaining can address these proficiency matters.

E. Can DAFS review computer / Internet access policy for staff and students?

AG Office hasn't responded; Ken Walo, Employee Relations will review.

F. Can DAFS review tobacco product use policy on campus? Is campus policy an issue for Bureau of Parks & Land?

State regulations allow departments to establish their own policies; Sandy Carraher, Employee Relations will review.

G. Staff training and organizational development needs

Computer training - from basic computer use to software training; organizational behavior and team building; developing policies and procedures and SWOT analysis? Human Resources staff may be able to tailor training programs or contract out to a vendor.

H. Background checks on new and current employees

Does fingerprinting / criminal records check laws apply to GBSD? Phil McCarthy, Committee Staff, will review statutes and check with Bureau of Public Safety.

I. How can we develop a list of key contacts and decision makers in Augusta that have a clear understanding of commitments?

Developing a resource list of key DAFS personnel and other state agency resources can assist the GBSD leadership.

Longer-term GBSD budget and personnel responses

The task before the budget and personnel sub-committee is not only to review short-term solution to pressing problems, but to address what longer-term responses may be developed that can provide the GBSD policymakers with greater capacity to govern the operations of the school. The sub-committee may wish to consider the benefits and drawbacks of becoming a so-called "instrumentality of the state" and may also want to review specialized budget and personnel provisions written into law for existing Maine quasi-independent agencies (e.g., Maine State Retirement System, Maine School of Science and Mathematics, University of Maine System, Maine Technical College System).

Budget & Personnel Sub-Committee Meeting w/ DAFS Staff
Committee to Review the Governance Structure
of the Governor Baxter School for the Deaf

October 14, 1998

Meeting Summary

Budget & Personnel Sub-Committee members & others present: Roxanne Baker, Bill Nye, Jonathan Connick, David Stockford, Rep. Elizabeth Watson, Phillip McCarthy, Staff; Valerie Seaberg, Department of Education; Mary Youngs, ASL Interpreter

DAFS Staff present: Sandy Carraher, Employee Relations; Betty Lamoreaux, Purchases; Dawna Lopatosky, Budget; Jack Nicholas, Budget; Janet Waldron, DAFS Commissioner; Ken Walo, Employee Relations; Don Wills, Human Resources

Welcome / Purpose of the meeting

Rep. Watson welcomed all to the meeting and thanked Commissioner Waldron and her cross-departmental DAFS staff team for their work with GBSD Superintendent Bishop, Business Manager Lawley and School Board members John Paddock and Jonathan Connick. Phil McCarthy referred sub-committee members to the fact-finding meeting summary (see attachment) which highlights the specific budget and personnel concerns that were discussed at the Sept. 28th fact-finding meeting. While the fact-finding meeting was to consider short-term solutions to immediate problem situations at the school, Rep. Watson indicated that the purpose of the sub-committee review also included providing longer-term responses that would provide the GBSD policymakers with greater capacity to govern the operations of the school.

Walk-through of GBSD budget and personnel issues

The sub-committee reviewed the proposed short-term solutions discussed at the fact-finding meeting and reviewed potential longer-term solutions (please see the attached fact-finding meeting summary for background). The focus was to look at how GBSD fits or doesn't fit within state system and how to respond to particular short-term and long-term needs within the current system. The subcommittee unanimously approved these recommendations.

A. Acquiring necessary temporary and / or substitute personnel

- Short-term recommendations: For temporary or substitute personnel needs, GBSD can designate a number of positions as "intermittent" positions which are permanent staff positions considered to be either seasonal employees (who work for a period of less than 52 weeks each year) or permanent, on-call staff (who can be scheduled as necessary). DAFS is also considering creating a pool of full-time, intermittent positions to serve as substitute personnel.

- Long-term recommendations: GBSD can make a supplemental budget request to the Governor and Legislature to increase the full-time position headcount and to provide funds necessary in the upcoming biennium budget to support temporary “project” positions. These positions could be used to contract with a service agency (which itself employs individual service providers).

B. Reorganizing GBSD staff to attract and retain qualified staff / Requiring ASL proficiency as a condition of employment

- Short-term recommendations: DAFS can work with GBSD to create an incentive program for ASL-qualified staff. Staff members who achieved the ASL proficiency standard would receive a stipend (e.g., 10% of salary for reaching the standard and an additional 5% of salary for continuing skill development).
- Long-term recommendations: For the superintendent and principal positions, there may be a legislative solution by increasing these salaries in the budget bill.

A collective bargaining solution may provide some salary flexibility and ASL proficiency standards when negotiating the next MSEA contract for teachers. State law provides some flexibility under a “severe recruitment / retention policy” and a case may be made to increase the daily per diem allowed (under the existing MSEA teacher salary classification system) due to the need to recruit qualified teachers from the national market and the higher levels of qualifications (i.e., ASL proficiency) required to teach at the GBSD.

Legislation can direct the Maine DOE and State Board of Education to review the participation and performance of deaf educators on the National Teacher Examination and recommend any necessary changes in state standards for certification.

Legislation can direct the Maine DOE and the University of Maine System to establish a program to prepare deaf educators.

GBSD can negotiate an agreement with Gallaudet University and other postsecondary deaf education institutions to develop an outreach program for the training, development and placement of deaf educators who aspire to serve as administrators.

Other short-term, technical assistance responses to GBSD budget and personnel issues

The sub-committee agreed that the following budget and personnel issues were primarily short-term in nature and were matters that the GBSD School Board and Superintendent were working on with the assistance of DAFS staff (again, see attached fact-finding meeting summary for details).

- Implementation of performance appraisal program and progressive discipline policies

- Review of computer / Internet access policy for staff and students
- Review campus tobacco product use policy
- Staff training and organizational development needs
- Background checks on new and current employees
- Development of a resource list of key DAFS personnel and other state agency resources

Specialized responses for GBSD budget and personnel issues

The budget and personnel sub-committee discussed the necessity of creating a more flexible budgetary system for the GBSD, including the benefits and drawbacks of becoming a so-called “instrumentality of the state” (e.g., existing Maine quasi-independent agencies such as Maine State Retirement System, Maine School of Science and Mathematics, University of Maine System, Maine Technical College System). The lack of time available did not permit the subcommittee to reach agreement on any recommendations regarding these issues. Committee staff will provide information regarding policy considerations for public instrumentalities at the October 21st full Committee meeting.

APPENDIX F

Governance Powers and Duties: Governor Baxter School for the Deaf

GOVERNANCE POWERS AND DUTIES

Governor Baxter School for the Deaf

	GBSD Board	GBSD Superintendent	Department of Education	Other State Agencies	Governor	Legislature
CONTROL OF GOVERNANCE STRUCTURE	Controls internal workings of the school board and relationship between the school board and other governance entities				Appoints School Board Members	Enacts laws establishing governance structure, including powers, duties and composition of the School Board
POLICY	Statutory authority to set policy, including enrollment criteria, educational program, student conduct standards	Implements policies established by the School Board	Establishes general educational policy within framework of state and federal law (IDEA provisions establish federal policy relating to Deaf education)			Directs policy through enactment of general laws or laws specific to GBSD
BUDGET	Develops budget and submits it to the Department of Education Manages finances consistent with state budget	Assists Board in developing budget	Reviews and submits GBSD budget to Governor, without change Provides technical assistance as requested		Governor reviews, revises, and submits GBSD budget to Legislature [Governor may sign or veto budget approved by Legislature]	Legislature reviews and revises Governor's budget proposal and enacts budget, subject to Governor's approval [Legislature may attempt to override veto]
EDUCATIONAL PROGRAM/ OTHER	Ensures students are provided services in accordance with the IEP Reports assessment results to Governor and Legislature		Ensures compliance with federal law, (including ADA, IDEA) and state law	Office of the Attorney General provides legal advice to the School		

	GBSD Board	GBSD Superintendent	Department of Education	Other State Agencies	Governor	Legislature
PERSONNEL	<p>Hires the superintendent</p> <p>Oversees superintendent's hiring of other staff</p>	Hires staff, within confines of the budget (budget determines number, type and salary of staff)	<p>Establishes teacher certification criteria</p> <p>Handles personnel grievances under the union contracts</p>	<p>Bureau of Employee Relations -- advises DOE re: union issues</p> <p>DAFS/Bureau of Human Resources -- classifies and allocates positions to a pay range; screens applications and provides eligibility lists for competitive hire positions, provides management training; assists with affirmative action programs</p>		<p>Authorizes positions and funding for positions</p> <p>(State law and union contracts address many personnel issues, including discipline, firing, contracting out)</p>
SAFETY & SECURITY	Responsible for safety of students					
PROPERTY MANAGEMENT	<p>General power to manage property</p> <p>Consult with BPL regarding public access to island</p>			<p>Bureau of General Services, Department of Administrative and Financial Services -- performs repairs, etc. of facilities</p> <p>Bureau of Public Lands, Department of Conservation -- manages island for protection of plant and animal life</p>		

APPENDIX G

Comparison of Governance Powers and Duties: Governor Baxter School for the Deaf, Public School Boards and Maine School of Science & Mathematics

COMPARISON OF GOVERNANCE POWERS AND DUTIES

Governor Baxter School, Public School Boards and Maine School of Science & Mathematics

Powers & Duties	School Board of the Gov. Baxter School for the Deaf	School Board of a local School Administrative Unit	Board of Trustees, Maine School of Science and Mathematics
AGENCY	<p>Established as a public school for the purpose of educating deaf students. School must comply with all standards for state public schools and must comply with all federal and state laws and DOE rules for the provision of educational services to children with disabilities</p>	<p>Control and management of public schools are vested in the legislative and governing bodies of local school administrative units. A school administrative unit is a state-approved unit of school administration responsible for operating or constructing public schools; also a body politic and corporate</p> <p>Resident voters of one or more municipalities may form a school administrative unit and elect school board members, who are considered municipal officers</p>	<p>Established as a public, chartered school for the purpose of providing certain high-achieving high school students with a challenging educational experience. The school is a body politic and corporate and is an instrumentality and agency of the State. The exercise by the school of the powers conferred by law is the performance of an essential public function by and on behalf of the State</p>
POLICY-MAKING	<p>Statutory authorization as policy-making authority and governing body of the school</p> <p>Responsible for overseeing the administration of the school and can develop and adopt policies and rules necessary for the operation of the school</p>	<p>Governing body with statutory powers and duties for a school administrative unit as prescribed in Title 20-A</p> <p>Shall manage the schools and provide custody and care</p>	<p>Statutory authorization as policy-making authority and governing body of the school</p> <p>Can develop and adopt policies and rules, including bylaws, necessary or useful for the operation of the school</p> <p>Oversees administration of school</p>

Powers & Duties

School Board of the Gov. Baxter School for the Deaf

School Board of a local School Administrative Unit

Board of Trustees, Maine School of Science and Mathematics

FINANCE

Maine students attend the school free of tuition and room and board expense. Funding is provided based on the amount necessary to satisfy the IEPs of the students, as defined by DOE rule. 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

Board may accept donations, bequests or other financial assistance from a public or private source for any educational purpose

The constitution designates the financing of public education as a local responsibility vested in the legislative and governing bodies of local school administrative units. Statutes allow the Legislature to enact laws necessary to assure that all school administrative units make suitable provisions for the support and maintenance of the public schools so that every child shall be provided an opportunity to receive the benefits of a free public education. In this regard, the Legislature and the legislative and governing bodies of each local school administrative unit are jointly responsible for contributing to financing public education

Board provides an annual audit to DOE Commissioner

Maine students attend the school free of tuition charges. The student or their parent or guardian shall pay the cost of room and board. In the case of financial need, the State shall pay the difference between the cost of room and board and the student's family's ability to pay that cost

Based on the school's ability to raise private scholarship funds, the Legislature may appropriate funds to the scholarship fund

Board may accept donations, bequests or other financial assistance from a public or private source for any educational purpose

Provides financial audit annually to the Governor and Legislature

BUDGET DEVELOPMENT

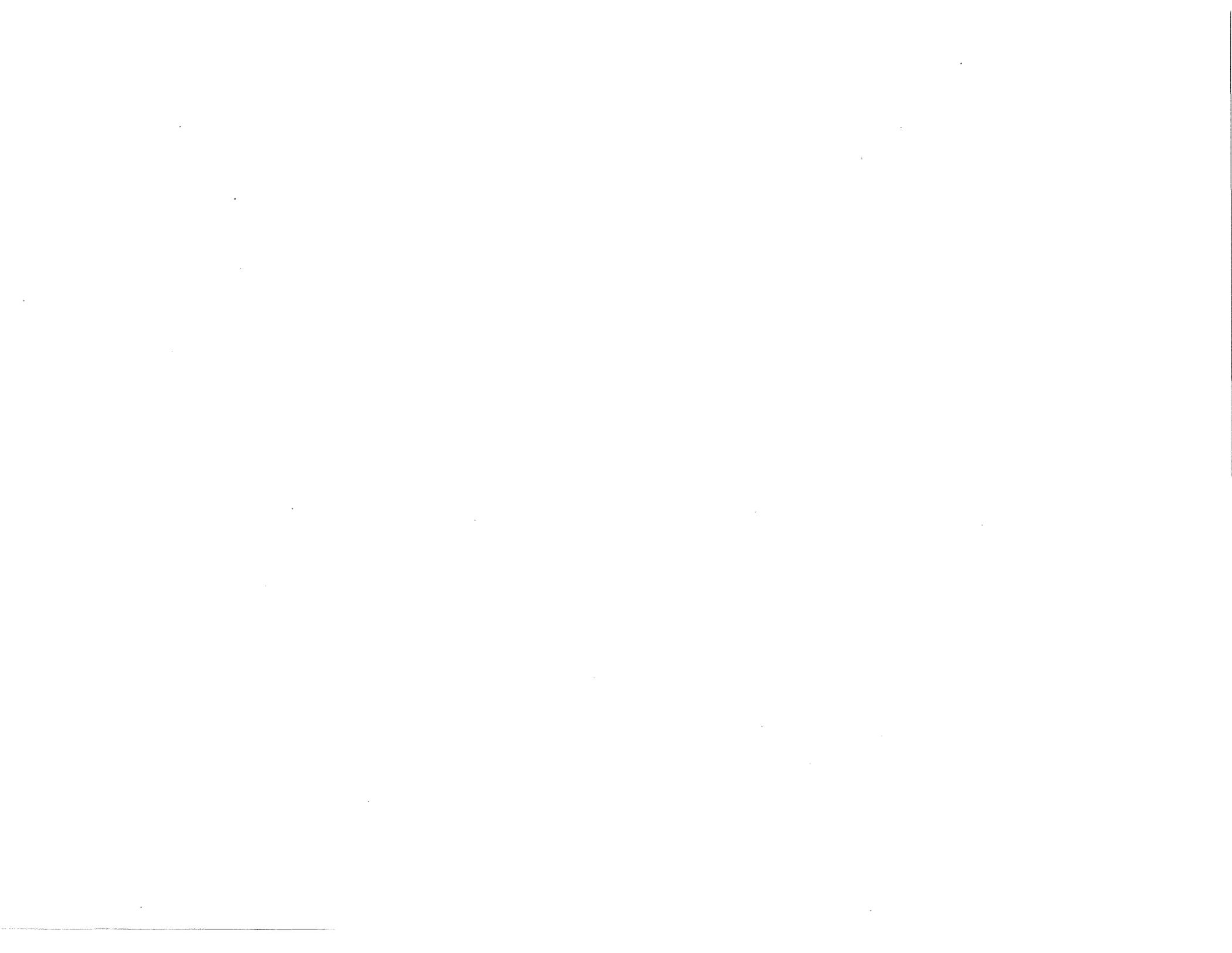
Develops budget with aid of superintendent and staff; and submits budget proposal to the DOE, subject to review and revision by the Governor and Legislature. Manages finances consistent with state budget

Board annually prepares a budget for the operational and capital expenditures of the school administrative unit

Presents budget to voters

Prepares and adopts annual budget for the school's operation, exercises budgetary responsibility and allocates for expenditure by the school all resources available for the operation of the school and its programs

(Page 3) Powers & Duties	School Board of the Gov. Baxter School for the Deaf	School Board of a local School Administrative Unit	Board of Trustees, Maine School of Science and Mathematics
PERSONNEL	<p>Selects and hires the superintendent</p> <p>Oversees superintendent's hiring of academic, residential, outreach and support staff</p>	<p>Selects and hires the superintendent</p> <p>Establish regulations governing salaries and qualifications for principals, teachers and other educational personnel; and responsible for approving superintendent's nominees for employment</p>	<p>Oversees administration of school, including the hiring of teachers and administrative support staff</p> <p>Appoints a treasurer</p>
CURRICULUM, EDUCATIONAL PROGRAMS & SERVICES, and ASSESSMENT	<p>Shall offer courses of study and grant diplomas and certificates. May create, maintain and expand programs (i.e., residential program, outreach services, adult education, parent-infant program, preschool program and communication garden program)</p> <p>Report biennially on the results of student assessment to the Governor and Legislature</p>	<p>Shall adopt and direct the general courses of study in accordance with the requirements of Title 20-A</p> <p>School administrative units may develop local assessment programs and may participate in the statewide assessment program</p>	<p>Shall offer courses of study and grant diplomas and certificates. Curriculum designed to exceed existing state educational standards</p> <p>Establish benchmarks and methods of assessing student progress in the levels of academic achievement in mathematics and science; and report biennially to the Governor and the Legislature on the results of the assessment</p>
PROPERTY MANAGE- MENT	<p>Consult with BPL regarding public access to island</p>	<p>Responsible for custody and care, including repairs and insurance on school buildings and all property in the school administrative unit</p>	<p>Can purchase any property, lands, buildings, structures, facilities, or equipment necessary. May make improvements to facilities. Town of Limestone retains ownership of school facilities</p>



APPENDIX H

Recommendations of Budget & Personnel Sub-Committee



RECOMMENDATIONS

Budget & Personnel Sub-Committee

[from October 14, 1998 meeting]

The purpose of the sub-committee review was to consider: (1) short-term solutions to immediate problem situations at the school; and (2) creating longer-term, special responses that responded to the operating parameters of GBSD and would provide GBSD policymakers with greater capacity to govern the operations of the school. The focus was to look at how GBSD fits or doesn't fit within the state budget and personnel system and how to respond to particular short-term and long-term needs within the current system.

The Budget & Personnel Sub-Committee unanimously approved the following recommendations:

A. Acquiring necessary temporary and / or substitute personnel

- Short-term recommendations: For temporary or substitute personnel needs, GBSD can designate a number of positions as "intermittent" positions which are permanent staff positions considered to be either seasonal employees (who work for a period of less than 52 weeks each year) or permanent, on-call staff (who can be scheduled as necessary). DAFS is also considering creating a pool of full-time, intermittent positions to serve as substitute personnel.
- Long-term recommendations: GBSD can make a supplemental budget request to the Governor and Legislature to increase the full-time position headcount and to provide funds necessary in the upcoming biennium budget to support temporary "project" positions. These positions could be used to contract with a service agency (which itself employs individual service providers).

B. Reorganizing GBSD staff to attract and retain qualified staff / Requiring ASL proficiency as a condition of employment

- Short-term recommendations: DAFS can work with GBSD to create an incentive program for ASL-qualified staff. Staff members who achieved the ASL proficiency standard would receive a stipend (e.g., 10% of salary for reaching the standard and an additional 5% of salary for continuing skill development).
- Long-term recommendations: For the superintendent and principal positions, there may be a legislative solution by increasing these salaries in the budget bill.

A collective bargaining solution may provide some salary flexibility and ASL proficiency standards when negotiating the next MSEA contract for teachers. State law provides some flexibility under a "severe recruitment / retention policy" and a case may be made to increase the daily per diem allowed (under the existing MSEA teacher salary classification system) due to the

need to recruit qualified teachers from the national market and the higher levels of qualifications (i.e., ASL proficiency) required to teach at the GBSD.

Legislation can direct the Maine DOE and State Board of Education to review the participation and performance of deaf educators on the National Teacher Examination and recommend any necessary changes in state standards for certification.

Legislation can direct the Maine DOE and the University of Maine System to establish a program to prepare deaf educators.

GBSD can negotiate an agreement with Gallaudet University and other postsecondary deaf education institutions to develop an outreach program for the training, development and placement of deaf educators who aspire to serve as administrators.

Other short-term, technical assistance responses to GBSD budget and personnel issues

The sub-committee agreed that the following budget and personnel issues were primarily short-term in nature and were matters that the GBSD School Board and Superintendent were working on with the assistance of DAFS staff (again, see attached fact-finding meeting summary for details).

- Implementation of performance appraisal program and progressive discipline policies
- Review of computer / Internet access policy for staff and students
- Review campus tobacco product use policy
- Staff training and organizational development needs
- Background checks on new and current employees
- Development of a resource list of key DAFS personnel and other state agency resources

Specialized responses for GBSD budget and personnel issues

The budget and personnel sub-committee discussed the necessity of creating a more flexible budgetary system for the GBSD, including the benefits and drawbacks of becoming a so-called "instrumentality of the state" (e.g., existing Maine quasi-independent agencies such as Maine State Retirement System, Maine School of Science and Mathematics, University of Maine System, Maine Technical College System). The lack of time available did not permit the subcommittee to reach agreement on any recommendations regarding these issues. Committee staff will provide information regarding policy considerations for public instrumentalities at the October 21st full Committee meeting.

APPENDIX I

Examples of Different Types of Governance Structures of Schools for the Deaf

Examples of Different Types of Governance Structures of Schools for the Deaf

(presented in order of independence from the state -- least independent schools appear first; most independent schools are last)

PENNSYLVANIA	Governance	Budget/Funding	Personnel	Curriculum, Assessment, Outreach
<p>Scranton State School for the Deaf (SSSD)</p> <p>SSSD is a public, residential program that enrolls 120 students</p> <p>(There is one other residential school in Pennsylvania that enrolls 205 students and 3 other day schools)</p>	<p>The school's governing board was established by the Department of Education. Appointments are made by the Governor. Policies developed by the superintendent, principal and business manager must be approved by the school's governing board as well as by the State Department of Education.</p>	<p>Governing Board reviews budget proposal developed by a management team consisting of superintendent, principal, business manager and 3 teachers</p>	<p>Non-administrative personnel are appointed by the Superintendent.</p> <p>Administrative personnel are recommended by the principal and approved by the Governing Board</p>	<p>Curriculum, determined by the Principal, must conform to Department of Education guidelines</p>
OHIO	Governance	Budget/Funding	Personnel	Curriculum, Assessment, Outreach
<p>Ohio School for the Deaf</p> <p>OSD is a public, residential school with enrollment of 141 students</p> <p>(Ohio has a 2nd residential school which is private and enrolls 160 students)</p>	<p>OSD is under supervision of the State Board of Education/Department of Education.</p> <p>Superintendent serves at the pleasure of the State Board of Education and reports to the CEO of the Department of Education</p>	<p>OSD has its own line item in the state budget</p> <p>School is audited every 2 years</p>	<p>State Board of Education hires the superintendent. Superintendent hires other staff. Salaries for teachers are regulated by law based on experience and degrees attained. Other salary are also regulated by law</p>	<p>Curriculum is designed to meet or exceed state educational standards</p>

Table prepared by the Office of Policy & Legal Analysis from Information provided by Dr. Gaylen Pugh and Dr. Doin Hicks, consultants to the Department of Education

TEXAS	Governance	Budget/Funding	Personnel	Curriculum, Assessment, Outreach
<p>Texas School for the Deaf</p> <p>TSD is a public, residential school that is a semi-autonomous agency of the state with enrollment of 446 students</p>	<p>9-member Board of Directors appointed by the Governor governs the school (3 members are deaf or hard of hearing, 3 are parents of persons who are deaf or hard of hearing, 3 are service providers in the field of deafness)</p>	<p>Board of Directors approves the budget before it goes to the Comptroller</p>	<p>The personnel office recruits non-academic staff; assistant superintendent recommends academic staff to the Executive Director, who takes it to the Board of Directors for approval.</p>	<p>Curriculum is responsibility of the assistant superintendent, who develops it with a team of staff. Programs must follow policies and principles developed under the requirements for accreditation by the Conference of Educational Administrators Serving the Deaf Accreditation Committee</p>
ALABAMA	Governance	Budget/Funding	Personnel	Curriculum, Assessment, Outreach
<p>Alabama School for the Deaf and Blind</p> <p>ASDB is a public, residential program that enrolls 252 students</p> <p>(See attached for description of the Alabama School System)</p>	<p>Governed by a 15-member Board of Trustees (the Governor, State Superintendent of Education and 13 others appointed by the governor)</p>	<p>AIDB presents a consolidated budget to the Legislature which consists of 3 primary line items. This provides flexibility and autonomy in setting job classifications and pay scales</p>	<p>Personnel services for the regional schools are centralized, but principals may add special skills or requirements</p>	<p>See attached</p>
SOUTH CAROLINA	Governance	Budget/Funding	Personnel	Curriculum, Assessment, Outreach
<p>South Carolina School for the Deaf and the Blind</p>	<p>A 9 to 11 member Board of</p>	<p>SCSDB presents one</p>	<p>see attached</p>	<p>see attached</p>

SCSDB is a public residential school with enrollment of 399 students

Commissioners governs the school (3 positions each are designated for representatives of the deaf and the blind communities)

consolidated budget to the Legislature. This method of funding provides flexibility -- personnel positions can be relocated easily and funds can be redistributed and redefined as needed.

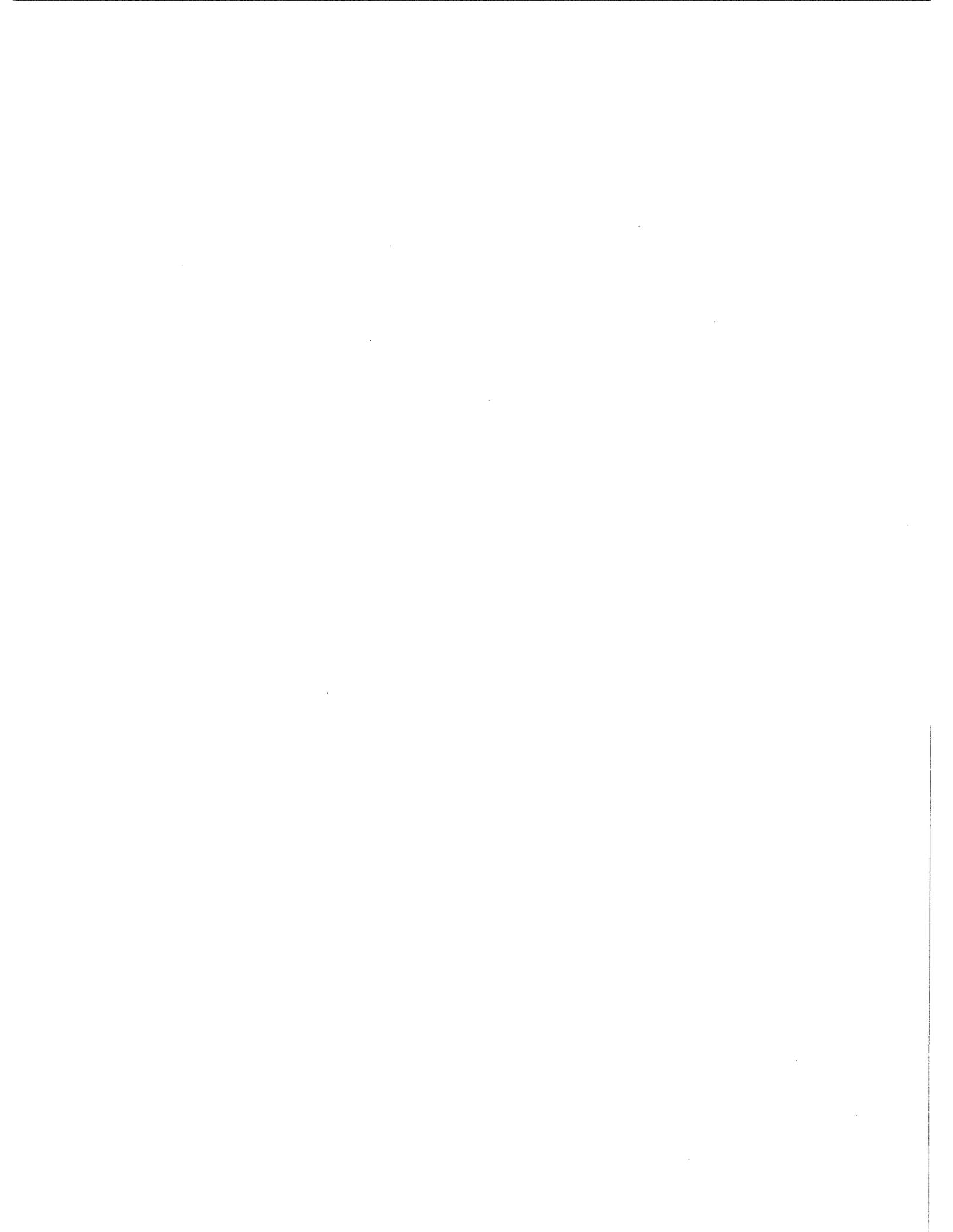
Also see attached

NEW MEXICO	Governance	Budget/Funding	Personnel	Curriculum, Assessment, Outreach
<p>New Mexico School for the Deaf</p> <p>NMSD is a public, residential school with enrollment of 261 students</p>	<p>Board of Regents, appointed by the Governor, develops policy</p>	<p>Funding comes primarily from leases on its land and from investment (70-80%). The remainder comes from state appropriation</p> <p>Budget request is submitted to the Commission on Higher Education. Capital requests are made to the Legislature as needed.</p>	<p>The school has its own personnel department, independent of the state personnel system. Policies are developed at the school.</p> <p>The school participates in the state medical insurance program and the state retirement system</p>	<p>The school determines its own curriculum.</p> <p>School provides assessment services and technical assistance to local programs.</p>
CONNECTICUT	Governance	Budget/Funding	Personnel	Curriculum, Assessment, Outreach
<p>American School for the Deaf</p> <p>ASD is a state-aided, private residential school with enrollment of 245 students</p>	<p>Board of Directors is proprietary, independent of the State Department of Education</p>	<p>Budget request to the Legislature is passed through the Department for administrative purposes only</p>	<p>Appointments of all personnel, except the executive director (superintendent) are made by the executive director</p>	<p>Curriculum is determined by the senior management team, and subject to the accrediting and assessment agencies with which the school has a relationship</p>



APPENDIX J

Private & Special Law Creating the Maine School for the Deaf (1897)



Chapter 446.

An Act establishing the Maine School for the Deaf.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

School for deaf and dumb, established.

Sect. 1. The Maine School for the Deaf is hereby established to be devoted to the education and instruction of deaf and dumb children.

Location.

Sect. 2. Said school shall be located at Portland, in the county of Cumberland, and the governor and council are hereby authorized, on behalf of the state, to accept a conveyance from the city of Portland of the school lot, building and fixtures now used as a school for the deaf in said Portland upon the condition that the state shall hereafter assume the entire charge, responsibility and expense of maintaining said school.

—state may accept conveyance of lot and buildings.

Trustees, appointment and tenure.

Sect. 3. The government of said school is hereby vested in a board of five trustees, to be appointed by the governor with the advice and consent of the council, to hold office for a term of five years except, however, that the trustees first appointed shall hold office, one for one year, one for two years, one for three years, one for four years and one for five years.

Duties of trustees.

Sect. 4. The trustees shall have charge of the general interests of the school and see that its affairs are conducted in accordance with law and such by-laws as they may adopt; they may adopt by-laws which shall be valid when sanctioned by the governor and council; they may employ a principal and such teachers and other employes as they may deem advisable, and fix the compensation of the same subject to the approval of the governor and council; they may from time to time prescribe the system of education and course of study to be pursued in the school and shall be allowed for their services their actual expenses and two dollars a day when actually employed.

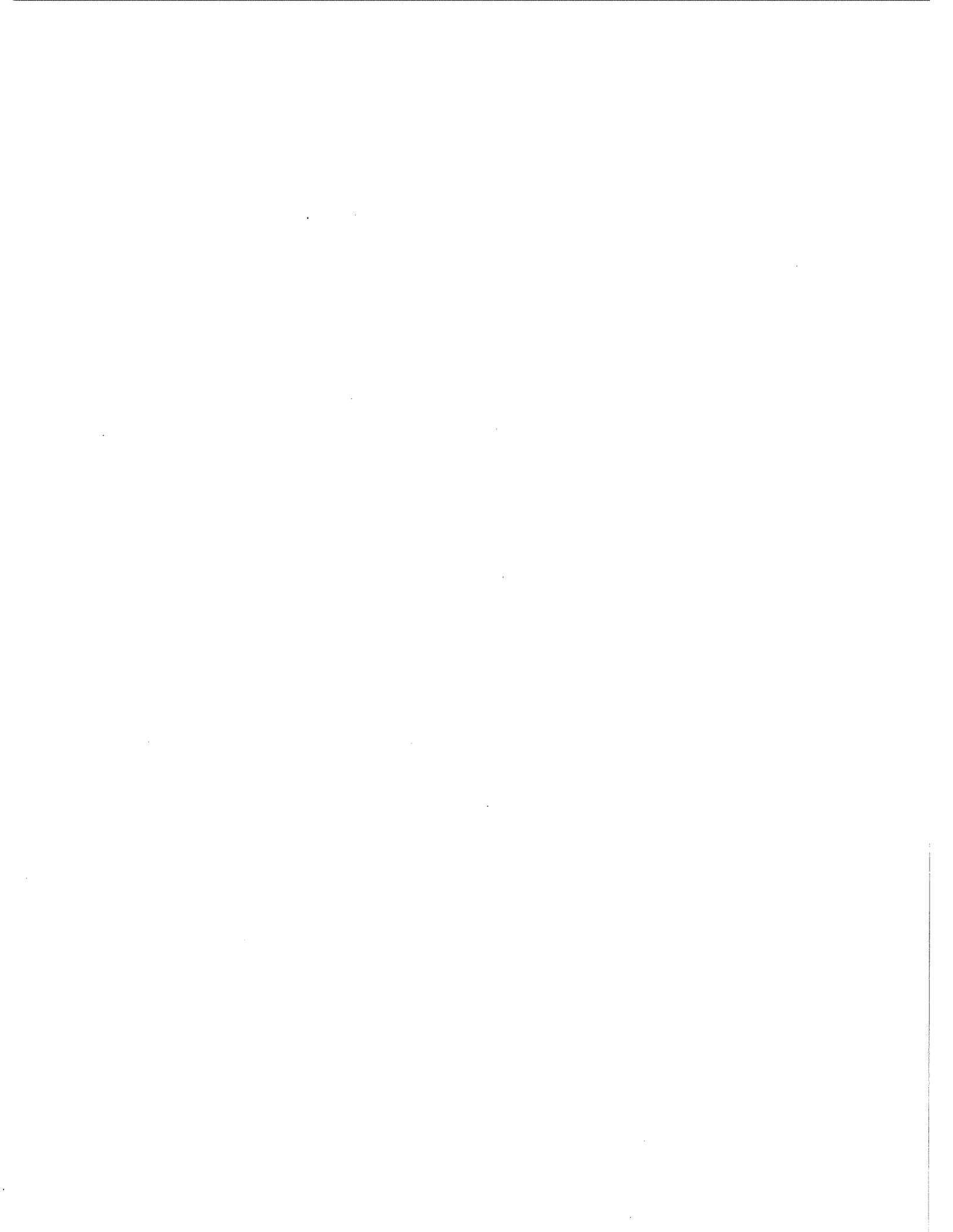
—course of study.

Admission and support of pupils.

Sect. 5. With the consent of its parent or guardian, the trustees may admit to said school for a term not exceeding twelve years, any deaf or dumb child residing in this state and not less than five years of age, who shall not be withdrawn or discharged from said school, except with the consent of the trustees or the governor and council, and the sums necessary for the support and instruction of such children while attending said school, shall be paid by the state.

Children from other states may be admitted.

Sect. 6. Deaf and dumb children residing in other states, may at the discretion of the trustees, be admitted to said school upon the payment by their parents or guardian of a reasonable compensation to be fixed by the trustees.



APPENDIX K

**Explanation of the Management of Mackworth Island; including Deeds
and Resolves Granting Mackworth Island to the State of Maine and
Creating the Governor Baxter School for the Deaf**

Management of Mackworth Island

1. What documents exist relating to the grant of Mackworth Island to the State?

Attached are copies of the following documents:

- 1943 deed by which Governor Baxter conveyed Mackworth Island to the People of Maine, subject to certain restrictions and obligations (to use the island for state purposes, to maintain the pet cemetery and to maintain the island as a sanctuary for wild beasts and birds) (ATTACHMENT A)
- Communication from Governor Baxter to Governor Burton Cross regarding Gov. Baxter's wishes regarding the island (ATTACHMENT B)
- 1953 Private & Special Law through which the State accepted Governor Baxter's offer of \$675,000 to build a school for the deaf on Mackworth Island and a bridge to the island (ATTACHMENT C)

2. What is the current arrangement between the Department of Conservation and the Governor Baxter School regarding management of Mackworth Island?

By agreement dated June 29, 1992, the Governor Baxter School for the Deaf transferred responsibility for managing the natural resources of the island to the Department of Conservation, Bureau of Public Lands. (ATTACHMENT D)

The agreement identifies the resources that the Bureau will manage and requires the Bureau to adhere to the resource management recommendations included in the 1991 Mackworth Island Management Plan, subject to available resources.

The agreement calls for cooperation between the Bureau and the School, but does not establish a formal process by which cooperation and coordination will occur.

2. What were the recommendations of the previous Task Force relating to island management?

In 1990, the Maine Legislature directed the Department of Education and the Bureau of Public Lands to prepare a draft management plan for the Mackworth Island public trust. The draft plan, prepared under contract by Sasaki Associates, Inc., was then reviewed by the 7-member Mackworth Island Public Trust Advisory Board. (ATTACHMENT E is a summary of recommendations from the draft management plan; ATTACHMENT F is a letter summarizing the advisory board review comments)

With regard to an administrative structure for managing the island, the draft management plan recommended the creation of a seasonal ranger position, supervised by the Bureau of Public Lands. The plan also recommended that the Bureau of Public Lands be assigned the primary responsibility for managing resources on the island, with input from GBSD to ensure that GBSD's needs are met. Finally, the plan recommended that a permanent Mackworth Island Public Trust Advisory Board be formed. The Board's role would be to advise the Director of Public Lands and the Superintendent of the Baxter School on important matters relating to the public trust in Mackworth Island. It would also review long-term trends, issues and opportunities and advise the Bureau and the school of responses to these issues.

As I understand it, the Legislature did not approve the seasonal ranger position or the permanent advisory board. However, pursuant to the 1992 agreement between BPL and GBSD, the Bureau continues to use the management plan as guidance in its management of resources on the island

4. Other information

Attached is information requested by committee members at the August 19th meeting. Ralph Knoll, committee member representing the Department of Conservation, has provided a list of activities undertaken by the Bureau with regard to the island.
(ATTACHMENT G)

54

Baxter
to
State
of
Maine, Tr.
Q.C.

Book 1706, Page 54

Attachment A

P 1 of 2

DEED

KNOW ALL MEN BY THESE PRESENTS That I, Percival Proctor Baxter of Portland in the County of Cumberland, State of Maine, in consideration of one dollar and other valuable considerations paid by the STATE OF MAINE, the receipt whereof is hereby acknowledged and in furtherance of my desire to convey and donate to the State of Maine, Mackworth Island with the buildings thereon; Mackworth or Half-way rock and the bridge, right-of-way and pole rights all as hereinafter described to be held forever by the State of Maine as Trustee in Trust for the benefit of the People of Maine, do hereby remise, release, sell and forever quitclaim unto the said STATE OF MAINE the following described real estate in the town of Falmouth, Portland Harbor, Casco Bay:-

Mackworth Island with the buildings thereon the same being one hundred (100) acres more or less in extent together with Mackworth or Half-way rock situated southerly of said Island and also together with the bridge connecting said Island with the main-land of said Falmouth, the right-of-way leading from said Falmouth end of said bridge across the Look Estate so called as defined in deed from Ensena L. and Frederick H. Wilson to Percival Proctor Baxter dated July 27, 1911, recorded in Cumberland Registry Book 879, Page 108, and the pole rights as described in deed from Emma M. Webber to Percival Proctor Baxter dated August 2, 1916, recorded in Cumberland Registry of Deeds Book 975, Page 119.

This conveyance is made subject to the following reservations and conditions namely;

said State forever shall maintain the small cemetery for animals and the bronze tablets on the boulder therein situated on the easterly point of said Island;

said Island, rock, bridge, right-of-way and pole rights forever shall be retained and used by said State of Maine for State Public Purposes only, but the same never shall be used for corrective or penal institutions, nor for any purpose connected with the enforcement of the laws of the State relating to criminals;

said Island and the surrounding waters as described in Revised Statutes chapter 38 section 85 as amended by chapter 184 of the laws of Maine 1935 forever shall be maintained as a sanctuary for wild beasts and birds;

said State by the hand of the Governor and Executive Council may lease said Mackworth Island and the bridge leading thereto to said Baxter in accordance with the terms of a lease hereinafter described;

said Island is and shall be subject to four (4) easements as follows -

1- easement for certain pole rights granted to the Cumberland County Power and Light Company by deed dated July 3, 1916, recorded in Cumberland County Registry Book 971, Page 465;

2- easement for a water pipe line granted to the United States of America by deed dated June 22, 1918, recorded in Cumberland County Registry Book 1005, Page 150;

3- easement for a water pipe line granted to the Portland Water District by

See
Book 1727
Page 361

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deed dated July 25, 1929, recorded in Cumberland County Registry Book 1341, Page 319;

4- and an easement shall be granted by said State to the United States of America for the construction of a twelve (12") inch water main across the Island; the deed for said easement shall be signed by the Governor acting for and in the name of said State, and whatever sum shall be paid to said State as damages for said easement shall be paid to the said Baxter;

TO HAVE AND TO HOLD the above described premises with all the privileges and appurtenances thereto to the STATE OF MAINE as Trustee to be held forever in Trust for the benefit of the People of Maine the same forever to be used for State public purposes all as above defined and subject to the above mentioned reservations and conditions and I the said Percival Proctor Baxter covenant with the said STATE OF MAINE that I will warrant and defend the said premises to the STATE OF MAINE against the lawful claims and demands of all persons claiming by, through or under me.

IN WITNESS WHEREOF I the said Percival Proctor Baxter being unmarried have hereunto set my hand and seal this thirteenth day of January in the year of our Lord one thousand nine hundred and forty-three.

Signed and Sealed in Presence of
Charles J. Nichols Percival Proctor Baxter Seal
State of Maine
Cumberland, ss. Portland, January 13, 1943.

Personally appeared the above named Percival Proctor Baxter and acknowledged the above instrument to be his free act and deed.

Before me, Frank I. Cowan, Notary Public
Notarial Seal

Received January 21, 1943, at 9h -m A. M., and recorded according to the original

Deed of Administratrix dbn-cta-by license when personal estate insufficient to pay debts.

KNOW ALL MEN BY THESE PRESENTS, That I, Lena Gould Scott of Portland, County of Cumberland and State of Maine, in my capacity as Administratrix dbn-cta-of the estate of True B. Coffin late of Windham in said County, deceased, testate, having obtained a license from the Judge of Probate for Cumberland County on the second day of December A. D. 1942 to sell and convey at private sale the real estate of the late True B. Coffin, as described in my petition for license to sell the same as herein described, being the whole of the premises, in that locality, because the residue thereof would be greatly depreciated by a partial sale thereof, and having obtained license to sell the same at an advantageous, private sale and having given bond as required by law.

NOW THEREFORE, I the said Lena Gould Scott, in my capacity aforesaid, and by virtue of the authority and power vested in me as aforesaid, and in consideration of the sum of thirty two hundred dollars to me paid by Albert P. Mathieu of Westbrook County of Cumberland and Philip L. Mathieu of Biddeford County of York, both of the

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COMMUNICATION
STATE OF MAINE
OFFICE OF THE GOVERNOR
Augusta

March 4, 1953

To the Honorable Senate and House of
Representatives of the 90th Legislature:

Herewith I hand you for your consideration a communication addressed to the Governor, the Senate and House of Representatives by Honorable Percival Proctor Baxter relative to a gift for the development of Mackworth Island, Bridge and Rock, as a School for the Deaf, and or, a Children's Honor Home and School.

We all appreciate the generous offer from our former Governor, and recognize his fine public spirit. We shall give our best thought to his suggestions and hope that the State will be able to benefit from this, his most recent benefaction.

BURTON M. CROSS,
Governor

(H. P. 1149)

HOUSE OF REPRESENTATIVES
Read and placed on
file with accompanying papers
March 4, 1953
Sent up for concurrence
HARVEY R. PEASE, Clerk

IN SENATE CHAMBER
Read and Placed on File
March 5, 1953
In concurrence
CHESTER T. WINSLOW, Sec.

COMMUNICATION

Portland, Maine
March 4, 1953

To the Honorable Burton M. Cross, Governor
and the Honorable Senate and House of Representatives
of the Ninety-sixth Legislature of the State of Maine—

In 1943 (Chapter 1 of the Private and Special Laws of Maine) the State accepted from me the GIFT IN TRUST of Mackworth Island, the Bridge to the same and Mackworth Rock all in the Town of Falmouth forever

to be held in Trust for the People of Maine. Under the terms of this Trust the State has full authority to use the Island, Bridge and Rock in any way it may choose provided the use is for "STATE PUBLIC PURPOSES."

In the Deed of Trust this property was leased to me for my use as long as I desired provided I assumed all expenses incident to its care and operation. At that time I also donated to the State of Maine the sum of ten thousand (\$10,000.00) dollars as a TRUST FUND for Island, Bridge and Rock purposes.

From 1943 to 1949 during the Summer months I lived on the Island and maintained it and the Bridge without expense to the State. In 1949, however, I moved from the Island and thereafter the State assumed full ownership and responsibility.

In an OFFICIAL COMMUNICATION addressed to the Legislature (pages 703 to 708 of the said Laws of 1943) this property is described and I suggested that it be used as "a home for sick and underprivileged children" and further stated that "ITS USE FOR CHILDREN WOULD BE ESPECIALLY PLEASING TO ME." This is merely a suggestion and imposes no obligation upon the State other than the "State Public Purposes" provision as specified in the Deed of Trust. Ten years have passed and now I am desirous of having my Gift put to a useful purpose during my lifetime.

I now offer the State the sum of six hundred twenty-five thousand (\$625,000.00) dollars in two items: five hundred thousand (\$500,000.00) dollars to be expended toward the construction of a new school for the Deaf or toward the construction of a new Home and School for the wards of the State as hereafter described, and one hundred twenty-five thousand (\$125,000.00) dollars for the construction of a new bridge to the same. The Bridge Engineer of the Highway Department has given me the latter figure as his estimate of the cost of a suitable Bridge.

My suggestion is that you first construct a new Maine School for the Deaf on the Island, and that later you erect thereon a Home and School for such of the State's younger wards as it may be desirable to take from some of the private homes throughout the State where they now are boarding at an expense to the State of about five hundred (\$500.00) dollars per year per child. My thought as to a second institution is that in the boarding homes referred to no doubt there are certain younger children of exceptional promise whose removal to a special institution might give them a better chance to develop into useful citizens. It well may be

that in time both institutions referred to can be established on the Island; the new School for the Deaf and what may be called an Honor Home and School for one hundred or two hundred of the State's selected children. There is ample room for these two institutions. It is for you to decide on which one of them you will expend this five hundred thousand (\$500,000.00) dollars Gift.

It is well for the offer of this Gift to contain some limitation of time for its acceptance and my offer will hold during the present Legislative Session. If accepted by Legislative Act I pledge to place this six hundred twenty-five thousand (\$625,000.00) dollars in the hands of the Governor as soon as he gives his approval to the plans and orders construction begun.

This offer will be considered as withdrawn if the construction of one or the other of the suggested institutions and of the Bridge be not begun by January 1, 1955. Provision will be made so that my Gift obligation will be honored in case of my decease.

I request that this communication be published in full in the Laws of Maine 1953 as a permanent record for the guidance of future generations.

Respectfully,

PERCIVAL PROCTOR BAXTER

HOUSE OF REPRESENTATIVES

Read and Placed on File

March 4, 1953

Sent up for concurrence

HARVEY R. PEASE

Clerk

IN SENATE CHAMBER

Read and Placed on File

March 5, 1953

In Concurrence

CHESTER T. WINSLOW

Secretary

ORDER

In Senate, March 4, 1953

ORDERED, the House concurring, that in order that the Record of the offer of a Gift by Honorable Percival Proctor Baxter to the State of Maine of six hundred twenty-five thousand (\$625,000.00) dollars, the same to be used toward the construction of a State institution on Mackworth Island and for a Bridge thereto in the Town of Falmouth be complete and in enduring form, the

COMMUNICATION dated March 4, 1953 addressed by said Baxter to Honorable Burton M. Cross, Governor, and to the Honorable Senate

and House of Representatives of the Ninety-sixth Legislature, together with the MESSAGE of Governor Cross transmitting the said Communication to this Legislature be printed in the Laws of Maine for 1953.

(S. P. 474)

IN SENATE CHAMBER

Read and Passed

March 5, 1953

Sent down for concurrence

CHESTER T. WINSLOW

Secretary

HOUSE OF REPRESENTATIVES

Read and Passed

March 10, 1953

In concurrence

HARVEY R. PEASE

Clerk

Attachment C (p. 1 of 2)

PERCIVAL PROCTOR BAXTER GIFT

541

PRIVATE AND SPECIAL, 1953

CHAP. 44

Chapter 44

AN ACT Accepting from Percival Proctor Baxter the Gift of Six Hundred Seventy-five Thousand (\$675,000) Dollars for the new Maine State School for the Deaf to be Constructed on Mackworth Island in the Town of Falmouth, Maine, and for a new Bridge Connecting said Island with the Mainland of said Town.

Emergency preamble. Whereas, in the judgment of the legislature the acceptance of the gifts as offered by the Honorable Percival Proctor Baxter creates an emergency within the meaning of section 16 of Article XXXI of the constitution of Maine, and requires the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

WHEREAS, PERCIVAL PROCTOR BAXTER, Governor of Maine during the years 1921-1925, by Deed dated January 13, 1943, and recorded in the Cumberland County Registry of Deeds, Book 1706, Page 54, donated and conveyed to the State of Maine, IN TRUST, Mackworth Island, Mackworth Rock, and the Bridge leading to said Island, all in the Town of Falmouth, and

WHEREAS, the said State by Legislative Act, Chapter 1 of the Private and Special Laws of Maine 1943, accepted the said Gifts, the same forever to be held by said State IN TRUST to be used for State Public Purposes as stated in said conveyance, the said acceptance being recorded in said Registry, Book 1727, Page 361, and

WHEREAS, the said Baxter in a Communication dated March 4, 1953 addressed to His Excellency Burton M. Cross, Governor of Maine, and to the Honorable Senate and House of Representatives of the Ninety-sixth Legislature, expressed his desire that his Gifts be used during his life time for State Public Purposes within the provisions of said Trust, and

WHEREAS, the said Baxter in said Communication offers to donate to said State the sum of five hundred thousand (\$500,000) dollars toward the establishment on said Island of a new Maine School for the Deaf, and

WHEREAS, the said Baxter further offers to donate to the said State the sum of one hundred twenty-five thousand (\$125,000) dollars for the construction of a Bridge to said Island, together with an additional sum of fifty thousand (\$50,000) dollars for the said Bridge, as offered by letter

Attachment C (p. 2 of 2)

542

KNOX COUNTY GENERAL HOSPITAL

CHAP. 46

PRIVATE AND SPECIAL, 1953

addressed to His Excellency Burton M. Cross, Governor of Maine, dated March 9, 1953, making a total of one hundred seventy-five thousand (\$175,000) dollars for the said Bridge.

NOW THEREFORE, the 96th Legislature of the State of Maine hereby accepts the offer by said Baxter to donate the total sum of six hundred seventy-five thousand (\$675,000) dollars to the said State to be used for the Purposes as specified in said Communication of March 4, 1953.

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved.

Effective April 9, 1953

Chapter 45

AN ACT Relating to Time of Sessions of Bath Municipal Court.

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

P. & S. L., 1937, c. 64, amended. The 2nd sentence of that part designated "Sec. 11." of chapter 64 of the private and special laws of 1937 is hereby amended to read as follows:

'Said court shall be in session every Monday at ~~10~~ 9 o'clock in the forenoon for the entry of civil actions and the entering up of judgments in all defaulted actions and for the trial of actions of forcible entry and detainer, and on the 1st and 3rd Mondays of each month for the trial and determination of all other civil processes.'

Effective August 8, 1953

Chapter 46

AN ACT Relating to Knox County General Hospital.

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

P. & S. L., 1903, c. 99, § 2, amended. Section 2 of chapter 99 of the private and special laws of 1903 is hereby amended to read as follows:

'Sec. 2. May hold property. Said corporation may take, receive, purchase, hold and possess lands and tenements in fee simple, in trust, upon

Attachment D
p. 1 of 2

TRANSFER AGREEMENT

This agreement is entered into by and between the Bureau of Public Lands ("Public Lands"), Department of Conservation and the Governor Baxter School for the Deaf, Department of Education ("GBSD"). Pursuant and subject to the provisions of M.R.S.A. Title 12, Chapter 202 §552-E, GBSD hereby transfers to Public Lands responsibility for the management of the natural resources of Mackworth Island, Town of Falmouth, County of Cumberland State of Maine, said island being one hundred (100) acres more or less in extent as described in deed from Percival Proctor Baxter to the State of Maine dated January 13, 1943 and recorded in Cumberland County Registry of Deeds at Book 1706, Page 54, subject to the following terms and conditions:

*As directed
#5 in
plan*

1. The natural resources of Mackworth Island shall be managed by the Bureau of Public Lands in a manner that is in accordance with the terms of Governor Baxter's January 13, 1943 Deed of Conveyance. For the purposes of this agreement the natural resources of Mackworth Island to be managed by the Bureau of Public Lands are those areas identified as tidal shoreline, embankment, beach, and public open space zones, including forested areas, on the aerial map of Mackworth Island attached hereto and made a part hereof as Exhibit A.
2. The Bureau of Public Lands shall adhere to the resource management recommendations presented in the document entitled Mackworth Island Management Plan (pg. 35 and 36) within the financial constraints of the Public Lands Management Fund.
3. The Bureau of Public Lands shall work closely with the administration of the Governor Baxter School for the Deaf in exercising management of the natural resources of Mackworth Island. GBSD and Public Lands shall cooperate with each other and provide to each other upon request such

Post-It™ Fax Note	7671	Date	2/16	# of pages	3
To	Tom Perrin	From	Susan King		
Co./Dept.	BPEL	Co.			
Phone #	287-3061	Phone #	778 4111		
Fax #	287-8111	Fax #			

Attachment D
Page 2 of 2

information, inventory data and other materials useful for natural resource management as may be in the possession or subject to the control of either agency.

- 4. The term of this agreement shall commence upon its approval by the Commissioners of Education and Conservation and by the Governor and shall continue until terminated by agreement of all parties hereto.

Dated at Augusta this 29th day of June, 1992

Department of Education

By: Polly Ward Date: 6/18/92
Polly S. Ward, Acting Commissioner

Department of Conservation

By: C. Edwin Meadows, Jr. Date: 6/23/92
C. Edwin Meadows, Commissioner

Governor of Maine

By: John R. McKernan Date: 6/26/92
John R. McKernan, Governor

Governor Baxter School for the Deaf

By: Kathleen M. Fries Date: April 30, 1992
Kathleen M. Fries, Superintendent

Bureau of Public Lands

By: Thomas A. Morrison Date: April 23, 1992
Thomas A. Morrison, Director

including the Governor Baxter School for the Deaf, MDOT, Parks and Recreation, and the natural resource management personnel.

1. Short-Term Recommendations

Management:

- Formalize management structure and establish working relationships among participants.
- Define BPL and Department of Education's roles and responsibilities for management of the resources.

Recreational Use:

- Quantify user impact on the resource to define design capacity and implement guidelines for limiting number of recreational users.
- Maintain perimeter pathways.

Vegetation and Wildlife:

- Map and inventory plant communities and individuals.
- Identify rare, endangered or otherwise unusual wildlife species on the island and adopt strategy for appropriate management.

Forest Management:

- Develop strategy for forest harvesting to provide particular wildlife habitat, recreation and aesthetic benefits.

Historical

- Inventory historic sites.
- Develop strategy for maintenance of historic sites as special protection sites, keeping them available for preservation, scientific study and appropriate public, GBSD and area schools enjoyment while protecting them from further degradation.

Interface:

- Develop policies and guidelines for public access to school grounds.
- Develop informational program to educate the public on where they can go and where they cannot go.

GBSD Buildings:

- Outline future growth of GBSD outreach programs and projected intensity of GBSD facility use. Coordinate with Management Plan and use guidelines.

2. Long-Term Recommendations

Management:

- As budgeting allows, hire seasonal Park Ranger with clearly defined duties, reporting to [oversight group]

↳ BPL.

Attachment E
(p. 292)

Recreational Use:

- Study vista enhancement, benches, wildlife viewing stations, etc.
- Study development of formal arboretum, alternative recreational areas, and interpretive trail map.
- Study possible trail expansion and alternative access to shoreline areas, possibly including handicap access to recreational areas..

Vegetation and Wildlife:

- Coordinate public access to rare plant species with the larger guidelines of the Management Plan for maximum enjoyment of the resource while preventing further degradation.

Forest Management:

- Implement forest management strategy.

Historical:

- Implement historical site management strategy.

Other Issues:

- Develop policy and guidelines for PWD access to and maintenance of easement areas.
- Develop policy for traffic control on island and causeway coordinate with DOT and Falmouth police.
- Determine responsibility for maintenance of causeway and clear communication for regular monitoring thereof.
- Continue to develop security policy and standards in coordination with full time security personnel and GBSD community.
Anticipated Funding Requirements.

C. Anticipated Funding Requirements

The following is a summary of the future resource management needs for Mackworth Island which will require funding.

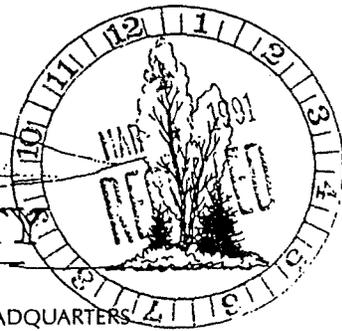
<u>RESOURCE MANAGEMENT NEED</u>	<u>EST. FUNDING REQ'TS</u>	<u>EST. DATE OF NEED</u>
1. Gravel and signs at parking lot	3,500.00	1991
2. Interpretive Trails and Sign Program	1,000.00	1991
3. Wetlands clean-up	800.00	1991
4. Seasonal Park Ranger	13,000.00	1991

Attachment F



BAXTER STATE PARK AUTHORITY

STATE OF MAINE



AUTHORITY MEMBERS

JOHN H. CASHWELL, CHAIRMAN
DIRECTOR-MAINE FOREST SERVICE

WILLIAM J. VAIL, COMMISSIONER
INLAND FISHERIES AND WILDLIFE

MICHAEL E. CARPENTER
ATTORNEY GENERAL

INFORMATION

(207) 723-5140

PARK HEADQUARTERS

ADMINISTRATION 723-9616

IRVIN C. CAVERLY, JR., DIRECTOR

64 BALSAM DRIVE
MILLINOCKET, MAINE 04462
(207) 723-9500

March 1, 1991

Tom Morrison, Director
Bureau of Public Lands
Bureau of Parks and Recreation
Station #22
Augusta, ME 04333

Kathleen Fries, Superintendent
Governor Baxter School for the Deaf
Mackworth Island
P.O. Box 799
Portland, ME 04104-0799

Dear Tom and Kathy:

As a follow-up to several months of meetings with the Mackworth Island Public Trust Advisory Board, it seemed appropriate that I offer to you an overview of the consensus of the Board in addition to the minutes that you have been receiving. In doing this, I hope this information will be helpful to you as you work with the planners to put together a proposed plan for the Legislature's consideration on March 10 of 1991. I have developed an inventory of topics and will proceed to discuss each according to that sequence of the inventory.

The Mackworth Island Public Trust Advisory Board was created by the Maine Legislature in the form of LD 2221. Board members were appointed and an inventory of that membership was established on October 17, 1990. Membership consisted of Irvin C. Caverly, Jr., Chairman, Director of Baxter State Park; Edward Welch of 25 Highland Avenue, Norway, ME; Rod MacInnes, 326 Auburn St., Apt. 25, Portland, ME; Rep. Herbert Adams, 65 Sherman St., Portland, ME; Donald Perkins, c/o of the Friends of Casco Bay, 3 Veterans St., Peaks Island, ME; John Dieffenbacher-Krall, Maine People's Alliance, 20 Danforth St., Portland, ME and Eric Baxter, 28 Wood Road, Cape Elizabeth, ME. Other participants included Tom



Morrison, Director, Bureau of Public Lands; Kathleen Fries, Superintendent, Governor Baxter School for the Deaf; Libbie Bush, Assistant Superintendent, Governor Baxter School for the Deaf and Henry Whittemore, Bureau of Public Lands. Staff members from Baxter State Park are Roxanna McLean, Secretary assisted with the minutes; also participating were Jean Hoekwater, Baxter Park Naturalist and Jensen Bissell, Baxter Park Forest Manager.

The first meeting of the Board was called to order on November 30, 1990 at 1:00 P.M. Subsequent meetings were held on December 20, 1990 at 1:00 P.M. at Governor Baxter School for the Deaf and February 15, 1991 at 8:00 A.M. at Governor Baxter School for the Deaf. Concluding each meeting a set of minutes was compiled by Baxter Park Secretary Roxanna McLean. These minutes have been distributed in draft form and when available in final form, to all participants of the meetings. All minutes with the exception of the February 15, 1991 have been adopted by the Mackworth Island Public Trust Advisory Board.

At our meeting of December 20, 1990, 1:00 P.M. at Mackworth Island, it was recognized by Board members that the timetable for completing our work and getting information to the planners was inadequate as the planners had been mandated by the Legislature to respond by January 10, 1991. It was moved, seconded and adopted that we would request the Legislature for an extension of up to 60 days at this meeting. As a result of that motion, I requested that Rep. Adams ask the Chair of the Energy and Natural Resource Committee at the Legislature for an extension. On January 9, 1991 I was advised by Paul F. Jacques, State Representative that our extension request had been approved to March 10, 1991.

MANAGEMENT STRUCTURE

After lengthy discussions at several meetings, it is the consensus of the Mackworth Island Public Trust Advisory Board that the Park Ranger position, when implemented, should be under the management and supervision of a natural resource protection agency. All members felt it would be inappropriate for this position to be supervised by the staff at the Governor Baxter School. It is our recommendation that the position be supervised by the Bureau of Public Lands. The interim Mackworth Island Public Trust Advisory Board should be appointed for a specific period of time as the permanent Board in order to establish continuity of many of these points discussed at various meetings.

RECREATIONAL USE

An extensive subject which was dealt with from many perspectives. The consensus of our group again is that the recreational use of the island should be monitored, stats gathered and a capacity plan developed. In the meanwhile, this group is recommending that parking for not over 20 vehicles be made available for recreational use; the parking lot for this to be controlled by the guardhouse at the entrance of Mackworth Island. Long term consideration should be carrying capacity of the island as a whole. Additional parking near the caretaker's house and

Governor Baxter School would be available for school and administrative business.

PET CEMETERY

Discussions regarding the status of the pet cemetery were consistent towards the best interest of maintaining that facility as was intended by Governor Baxter. It appears from personal inspection that the school has put a great deal of effort into fixing stones, upgrading the rock wall and established considerable improvement at the cemetery during the last few years. It's in good shape and we trust that it will continue to be maintained as such.

EROSION CONTROL

Erosion has been a concern from the very start and probably contributed much to the establishment of this Committee. The Committee found during their trips around the island, visits to the island and discussions at the various meetings, that there were serious control problems on drainage from building facilities, erosion on trails and dumping over the embankment into the bay. These were discussed at length through each set of the minutes that we referred to. The consensus of the Advisory Board is that close monitoring of anything that could have a negative environmental impact to the island must be evaluated closely and done in a proper way according to all State laws and good ethical practices.

GATEHOUSE CONTROL

Gatehouse control is seen as an important part of controlling use on the island. The new building in place is located such that it should offer the managers the opportunity to monitor all types of use and certainly should be a major improvement in controlling access. Some Committee members were concerned that the gatehouse was located as is and was costly to construct; however it is the opinion of the overall Board that the facility will accomplish the job it was designed for and will serve as a good control tool.

PETS

Next to environmental issues the dog issue was probably the most controversial among our discussions. It came up at every single meeting and motions were made and voted on at least 3 times before the group came to a consensus that dogs/pets should be allowed to continue on the island as long as they're kept on leash and other restraints 12 months a year. This motion was recommended for one year duration with the understanding that it be re-evaluated at the end of that year by the permanent Advisory Committee and recommendation be modified if necessary at that time based on pertinent information.

CARRY-IN, CARRY-OUT POLICY

During these times of disposal of solid waste it is the consensus of the Advisory Board that all material items brought onto the island by recreational users be carried out and properly disposed of. Therefore the plan should call for a Carry-in, Carry-out

policy.

ENVIRONMENTAL IMPACTS

Concerns were raised regarding some dumping that had taken place in a small pond, dumping over the embankments of the island towards the bay and the setting of debris such as leaves and bags placed on the embankment, other debris and rubbish and some old tires. These concerns were discussed at length and it is the recommendation by our Board that these items be cleaned up to the most practical and fullest extent possible. Also discussed was a drain overflow pipe which nobody really knew where it originated from, but it was pointed out that it is important to be sure that the pipe is sufficiently sealed and is not allowed to leak any hazardous and polluting material. The Advisory Board understands from the staff that the pipe has been sealed and they will take steps to assure that it is sealed properly so that leakage will not occur. The Advisory Board also was concerned about poisonous chemicals - herbicides, pesticides and road salt - and have been assured by the staff that these items are not being used and have not been used during the last 2 years. Chemicals stored at the island from previous years will be disposed of according to law and it is recommended that road salt be mixed with sand to cut down on the impact of using clear salt. In addition to these specific issues, the Mackworth Island Public Trust Advisory Board is aware of several unique resources on the island which should be protected and monitored. Among these are the aquatic plant in the small pond near the gatehouse, the oyster shell middens; a honeysuckle shrub, shagbark hickory trees and Columbine. Lastly, the extensive softwood plantations established on the island by Governor Baxter are a dynamic community and will change over time. Management plans need to address the appropriate management actions necessary to complement these resources in the Mackworth Island setting.

INTERPRETIVE EDUCATION SIGNS FOR THE RECREATIONAL USER

The Advisory Board talked at great length about what could be done in the area of interpretation/education to better inform the users of the goals of the island. We believe a lot can be accomplished through education interpretation and signs to avoid misunderstandings and develop a better appreciation to what the island and its natural resources represent.

BUILDING EXPANSIONS

Building expansions should not be started until environmental impact studies have been complete and all steps have been taken to assure that any new construction minimizes negative impacts on the resources themselves and absolutely necessary for the administration of the school. This Board recognizes the school has to make the determination of what they need for facilities. It is important from our perspective that historic buildings such as the Governor's mansion, the caretaker's house and buildings that were present when Governor Baxter and his family lived on the island be preserved and protected to the fullest extent possible.

TANKS AND OIL SPILLS

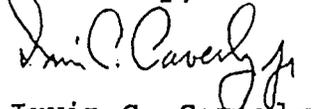
This issue again was discussed at great length and it was concluded by the Advisory Board that if there are tanks still in existence, they should be removed according to the guidelines offered by State regulations and any oil spills should be cleaned up and governed by the same laws.

And finally, the Board received a call from Roger Dunning of the MSEA who pointed out areas previously mentioned and which were dealt with at length in our discussions at the February 15 meeting. An inventory of those items included weed killer, road salt, guardhouse construction without a site plan, the pond being impacted by materials being thrown in, the pumping station drain not properly sealed and the Campground Ranger's position should be assigned to live in the caretaker's house and be supervised by a conservation agency vs. that of the island.

This is a quick overview of topics that we discussed and the consensus that we arrived at on each. It does not necessarily reflect every subject, but it does highlight to the author's best recollection those issues which were key issues and demanded a lot of time, discussion and resolution. I hope you find this memo helpful. If you need any clarification on any of the above, we would be happy to respond.

In conclusion, it is our united opinion that we should meet following proper notification with interested residents within the local communities to review our suggestions, positions and to explain how we arrived at them; to answer questions as they arise and to develop a dialogue which would be dedicated to minimizing negative impacts and contributing to good communications. On behalf of all Board members, our thanks to you and your staff for your input, your support and your enthusiasm in assisting us at arriving at these conclusions.

Sincerely,



Irvin C. Caverly, Jr.
Chairman of the
Mackworth Island Public
Trust Advisory Board
Dated March 1, 1991

ICC:rm

cc: BSP Authority
Jane Thomas
Roy Farnsworth
BSP Admin

**Maine Dept. of
Conservation
BUREAU OF PARKS AND LANDS**

Maine Dept. of Conservation

Phone: 287-4911
FAX: 287-3823
email:

Attachment G
P. 1 of 2

Memorandum

To: Deb Friedman, OPLA

From: Ralph Knoll, Director
Planning & Acquisition 

Date: Wednesday, September 2, 1998

Subject: MACKWORTH ISLAND

Please find below additional information in regards to the Bureau's management of Mackworth Island. I have also included a list of issues that the Committee may want to discuss. You will also find enclosed copies of the trail brochure that may be of interest to the Committee. Please call me at 287-4911, if you have any questions. Thank you.

1991 Management plan developed, forest and shores of the island transferred to Bureau of Parks and Lands in response to public and legislative concern regarding various issues (dogs off leash, drinking and partying, etc.) and various land management practices (brush disposal in wetlands, storm water runoff).

1991-93 Maine Conservation Corps crews rehabilitate trail system, constructing stairs and erosion control devices on approved shore access paths and closing out eroding and/or unsafe routes.

1995 BPL contracts with Manpower Inc. to provide 8 hours per week of visitor information/monitoring and light maintenance from May to September. Cost: \$1,200.00

1996-97 BPL enters into management agreement with Portland Trails to provide above services. Cost: \$1,200.00 No applicants for position in 1998.

1997 Major reconstruction of parking area to add surfacing and improve drainage, eliminating or substantially reducing "mud season" closures

1998- Legislation was passed that gives the Bureau authority to sell the State owned land in Colorado, and use the revenue (est. \$80,000.00) from that sale to establish the Mackworth Island Trust Fund. The interest from the fund will be used by the Bureau to help defray management costs on the island.

Issues:

Use Levels: While there is considerable demand for more use of the island (numerous would-be visitors are turned away on fine summer weekends), it appears unlikely that more use can be accommodated without undue adverse impact on the island resources and/or the quality of experience for visitors. A more efficient means (perhaps a remote controlled sign on the mainland) of announcing "no vacancy" would facilitate traffic flow and ease tempers.

Visiting Hours: The island is open from dawn to dusk. There is considerable interest in visiting the island both earlier and later in the day. While some of this interest is for inappropriate activities such as drinking parties, there is also considerable interest from joggers and striped bass anglers, and walkers who enjoy the stars and moon for access outside or at the edge of the open hours. This challenges the gate house staff to effect prompt closures, obviously it is difficult to locate visitors in the dark.

Communications: GBSD and BPL have not always enjoyed prompt communications or a clear mutual understanding of responsibility for visitor management. BPL's extremely low profile presence has resulted in de facto visitor management by the gate house staff in response to events. These responses have frequently been to close the island temporarily in response to storms or scheduled school events. BPL, in the past, was not always advised of these closures which resulted in considerable confusion when inquiries/complaints were received from the public. A clear understanding of responsibilities and communication is needed.

Enforcement: Dogs off leash, littering, bicycle use on trails, and after hours visitation are all problems to a certain extent. The need for regular patrols of the trails is obvious.

Toilets: The original intent to not provide toilets was to encourage shorter visits, allowing for more visitors to enjoy the island briefly. While this may work to some extent, there are a number of locations which are used frequently enough to be quite unsanitary and unsavory. Installation of an accessible vault privy is recommended. Regular cleaning and pumping will be required.

APPENDIX L

Explanation of Personnel Matters at the Baxter School

Personnel Matters

1. What role does each state agency play in personnel matters at the GBSD?

Governor/ State Legislature

The Maine Legislature must authorize the number of positions to be filled at the GBSD and the funding for the positions. Generally, the positions are requested by the Governor in the budget bill presented to the Legislature at the beginning of the biennium. (In January or February immediately following the November general election). Positions that were authorized in budget bills of prior years are generally continued without a great degree of scrutiny, but additions or changes to the personnel roster of an agency are scrutinized more carefully during the legislative process.

The Governor or a legislator may also introduce legislation (other than a budget bill) to add or change personnel authorizations.

Even if the Legislature approves a bill authorizing changes in positions, the bill authorizing such a change must also be signed by the Governor.

Governor Baxter School Personnel Department

The GBSD Personnel Department directly hires teachers, administrators and other professional staff. This means that the school advertises the position, evaluates candidates and makes hiring decisions without assistance from the Bureau of Human Resources and without utilizing the eligibility lists and competitive hiring practices under civil service law. (The positions must first have been classified and allocated to a pay range by the Bureau of Human Resources before being added to the budget and approved by the Legislature).

Clerical, custodial and other support staff are hired through the competitive civil service system. This means that the school must use the list of eligible personnel developed by the Bureau of Human Resources.

Once hired, staff are evaluated by GBSD, using a standard personnel evaluation procedure established by the state. Discipline and other staff oversight is performed by the school, consistent with civil service law and any applicable union contracts. Grievances under the union contract are first considered by the superintendent, and if not resolved at that level, are next handled by the Department of Education, then the Bureau of Employee Relations, if necessary.

Department of Administrative and Financial Services (DAFS)

Bureau of Human Resources -- This bureau in the DAFS classifies each position in state government and allocates the position to a pay range in the state compensation plan. The classification and compensation plans are comprehensive plans designed to ensure an equitable classification and pay across all state government agencies and entities. For classified service employees (competitive hiring), the bureau tests and evaluates applicants, maintains list of eligible applicants and submits a list of eligible applicants to the department that needs to fill a staff opening.

The Bureau of Human Resources also provides management training, administers state employee benefit programs, and assists in resolving disputes under affirmative action.

Bureau of Employee Relations -- This bureau in DAFS negotiates contracts with employee unions on behalf of the governor and advises state agencies of the requirements under the union contracts.

Department of Education

The Department of Education works to resolve grievances between the school and union members over rights under the union contract. The Department becomes involved only if the issue cannot be resolved at the school itself.

The Department of Education also sets general rules regarding teacher certification and other personnel requirements under general law.

EXAMPLES OF HIRING PROCESSES

	CLASSIFIED, COMPETITIVE HIRE POSITIONS (clerical, custodial, support)	UNCLASSIFIED POSITIONS (teachers, professionals and administrators)
Budget request	GBSD submits its budget request to the Governor, requesting an additional support staff position.	GBSD submits its budget request to the Governor, requesting an additional support staff position
Classification and Allocation	The position is already classified as, e.g., "Clerical III", and allocated to pay range \$18,500 to \$23,000	The position is already classified as, e.g., "Educator III", and allocated to pay range \$23,500 to \$37,000
Budget request	The Governor decides to include GBSD's request in his budget request to the Legislature	The Governor decides to include GBSD's request in his budget request to the Legislature
Legislative Approval of Budget	The Legislature approves the additional position and approves funding to hire the person	The Legislature approves the additional position and approves funding to hire the person
Competitive Hiring System	GBSD contacts the Bureau of Human Resources to request a list of eligible applicants for the position	
Competitive Hiring System	The Bureau of Human Resources sends the eligibility, list, which is comprised of the names of all persons whose qualifications meet the qualifications needed for the position	
Hiring Decision	GBSD makes the hiring decision, consistent with civil service laws	GBSD advertises the position, receives and evaluates applications and makes the hiring decision

2. What flexibility does GBSD currently have to meet staff needs?

Reclassification or Reallocation of Positions

The school may ask the Bureau of Human Resources to reclassify a position or reallocate it to a different pay range if the school believes the duties of the position have increased sufficiently to justify a change.

Contracting Out

GBSD has the same ability and limitations regarding contracting for personal services as any other state agency. State law allows for personal services contracting under certain circumstances, including when:

Maine Revised Statutes, Title 5, §1816-A, sub-§1

- A. The services contracted are not currently available within a state agency, can not be performed satisfactorily by civil service employees or are of such a highly specialized or technical nature that the necessary expert knowledge, experience or ability is not available through the civil service system.
 - C. The legislative, administrative or legal goals and purposes can not be accomplished by using persons selected pursuant to the civil service system. Contracts are permissible under this criterion to protect against a conflict of interest or to ensure independent and unbiased findings when there is a clear need for a different outside perspective.
 - D. A state agency needs private counsel because a conflict of interest on the part of the Department of the Attorney General prevents it from representing the agency without compromising the agency's position. A contract entered into under this condition requires the written consent of the Attorney General.
 - F. The contractor conducts training courses for which appropriately qualified civil service instructors are not and can not be made available.
 - G. The services are of such an urgent, temporary or occasional nature that the delay incumbent in implementation under civil service would frustrate the purpose.
 - H. The contracting agency demonstrates a quantifiable improvement in services that can not be reasonably duplicated within existing resources.
- 2. Conditions; cost savings.** Personal services contracting is permissible to achieve actual cost savings when all the following conditions are met.
- A. The contracting agency clearly demonstrates that the proposed contract would result in actual overall cost savings to the State as long as, in comparing costs:
 - (1) The State's costs of providing the same service as proposed by a contractor are included. These costs must include the salaries and benefits of additional staff that would be needed and the cost of additional space, equipment and materials needed to perform the service; and

(2) Any continuing state costs directly associated with a contractor providing a contracted function are included. These continuing state costs include, but are not limited to, those costs for inspection, supervision, monitoring and any pro rata share of existing costs or expenses, including administrative salaries and benefits, rent, equipment costs, utilities and materials.

- B. The contract does not adversely affect the State's affirmative action efforts.
- C. The contract is awarded in accordance with section 1825-B.
- D. The contract includes specific provisions pertaining to the qualifications of the staff that is to perform the work under the contract, as well as a statement that the contractor's hiring practices meet applicable affirmative action and antidiscrimination standards.
- E. The potential for future economic risk to the State from potential rate increases or work interruptions by the contractor is minimal.
- F. The contract is with a firm or a licensed, registered or otherwise professionally qualified individual. For the purposes of this section, "firm" means a corporation, partnership, nonprofit organization or sole proprietorship.
- G. The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by State Government.
- H. The contract does not contain standards of performance or employee qualifications lower than existing state standards or minimum qualifications.

3. Contract information retained. Departments or agencies submitting proposed contracts shall retain all data, including written findings, relevant to the contracts and necessary for a specific application of the standards set forth in subsections 1 and 2.

Employee union contracts may also impact contracting out for services. The AFSCME and MSEA contracts provide that certain steps must be taken if the department contracts out for services that are normally performed by employees within the union bargaining unit (MSEA), or the contracting out results in a layoff of an employee who performs the function (AFSCME).

Personal services contracts must be awarded through a competitive bidding process, except under limited circumstances (small amount contracts, sole-source contracts and emergencies). The contract generally must be given to the "best-value" bidder.

Recruitment and Retention Stipends

Current law allows a department to pay a salary higher than that to which a position is allocated by the Bureau of Human Resources under certain conditions.

Maine Revised Statutes, Title 5, §7065, sub-§2-D

2-D. Recruitment and retention adjustments. Subject to this subsection, the director, with the agreement of the bargaining agent, if applicable, may approve payment of

recruitment and retention adjustments when the payment of a labor market adjustment is required to recruit and retain an adequate work force.

A. Payment of a recruitment and retention adjustment may be authorized only when justified by the following conditions.

(1) High turnover exists or long-term vacancies exist within State Government in the relevant occupational classifications or job series.

(2) The relevant occupational classification or job series has a clear, geographically definable labor market within which the State must compete.

(3) All appropriate recruitment and retention efforts have been attempted and have proven ineffective at the current levels of compensation.

(4) Comprehensive, verifiable documentation of labor market compensation levels for the relevant occupation has been compiled to determine competitive pay levels within the defined labor market. This documentation must demonstrate that a labor market disparity exists and that the disparity represents a long-term, not transitory or seasonal, problem.

B. The labor market adjustment must be reviewed at least every 2 years and adjusted to changes in the labor market or the overall relation of the standard pay policy to the specialized labor market. If the subsequent review provided in this paragraph results in the adjustment being decreased or discontinued, an employee receiving the recruitment and retention adjustment may not be subject to a reduction in pay.

C. To assist the director in making a determination under paragraphs A and B, a committee must be formed to evaluate each request from an agency or bargaining agent for a recruitment or retention adjustment. The committee must be composed of a representative of the bureau, a representative of the employing agency or agencies and a representative of the bargaining agent, if applicable. The committee shall evaluate the request against the criteria specified in paragraphs A and B and shall conduct studies as the committee considers necessary to evaluate the request. The committee shall, by majority vote, provide the director, the agency and the bargaining agent, if applicable, with a report recommending and documenting adjustments authorized under this subsection. The director, the agency and the bargaining agent, if applicable, shall act on this report. If a funding request is necessary to implement an approved adjustment, the director shall submit the cost items for inclusion in the Governor's next operating budget within 10 days after action on the report.

Other Budgetary "Tricks of the Trade"?

APPENDIX M

Explanation of School Board Membership on the GBSD School Board



School Board Membership

This information relates to membership and appointments to the School Board of GBSD. The following concerns were raised: (1) that positions on the board had remained vacant for a long time, making it difficult for the board to conduct business; and (2) that more of the members should be persons who are deaf or hearing impaired.

School Board Vacancies

1. *What is the process by which the governor solicits names for appointment to the School Board?*

I spoke with Cheryl Ring, the staff person in the Governor's office who is currently handling appointments. She says that the governor generally relies on advice from the Commissioner of the Department concerned, in this case the Department of Education. They also received suggestions from some current board members.

In the process of considering appointments, the governor's office reviews resumes, interviews potential candidates, and seeks people who:

- (1) meet the very specific statutory criteria;
- (2) have an understanding of deaf issues; and
- (3) have the time and willingness to serve on the board.

2. *Is there a law or any other provision that requires the Governor to appoint School Board members within a certain amount of time after the position becomes vacant?*

Current law required the Governor to make initial appointments by a certain date (September 1, 1996), but does not require later appointments to be made within a specific period of time after the position becomes vacant.

It would be possible to amend the law to require that appointments be made within a certain period of time, but if the Governor fails to comply, there is no way to enforce such a requirement. The Maine Supreme Court has ruled that the court has no power to order the Governor to take certain actions, even actions required by law. Kelly v. Curtis, 287 A.2d 426 (Me.1972) This ruling results from the need to protect the integrity of the three co-equal branches of government—the executive, legislative and judicial branches. No branch has authority to order the other to take a certain action. The only real enforcement mechanisms are impeachment, which seems unlikely, and the use of the ballot box at the next election.

Composition of the School Board

1. *What is the composition of the school board that governs the math and science magnet school, as compared to the GBSD?*

Type of member	Governor Baxter School for the Deaf School Board	Maine School of Science and Mathematics Board of Trustees
Total Membership	13 voting members 2 nonvoting members	17 voting members; 2 nonvoting members
Parents	3 parents of students who attend the school 1 parent of a child receiving outreach services in a local school	
Students	2 GBSD students (non-voting)	One student, elected as presiding officer of the student body
Constituent Group Representatives	3 representatives of the deaf community	
Educational Experts, State agencies	2 individuals with expertise in deaf education (not employed by the school)	Commissioner of Education Chancellor of the University of Maine System President of the Maine Technical College System President of the Maine Science and Technology Foundation
Local Representatives		Chair of the Limestone School Board 1 citizen of Limestone with an active interest in education

General Public	4 members of the general public	8 members of the general public, at least 5 of whom must be scientists, engineers or mathematicians employed within the business or industrial community, one of whom must have expertise in instructional TV, appointed by the Governor and subject to review by the legislative committee on education and subject to confirmation by the Legislature
Others		3 teachers (1 employed by the school, who is a nonvoting member; and 2 others who are not employed by MSSM and are voting members) Superintendent of the school, who is a nonvoting member

APPENDIX N

Examples of State Entities with Some Degree of Independence

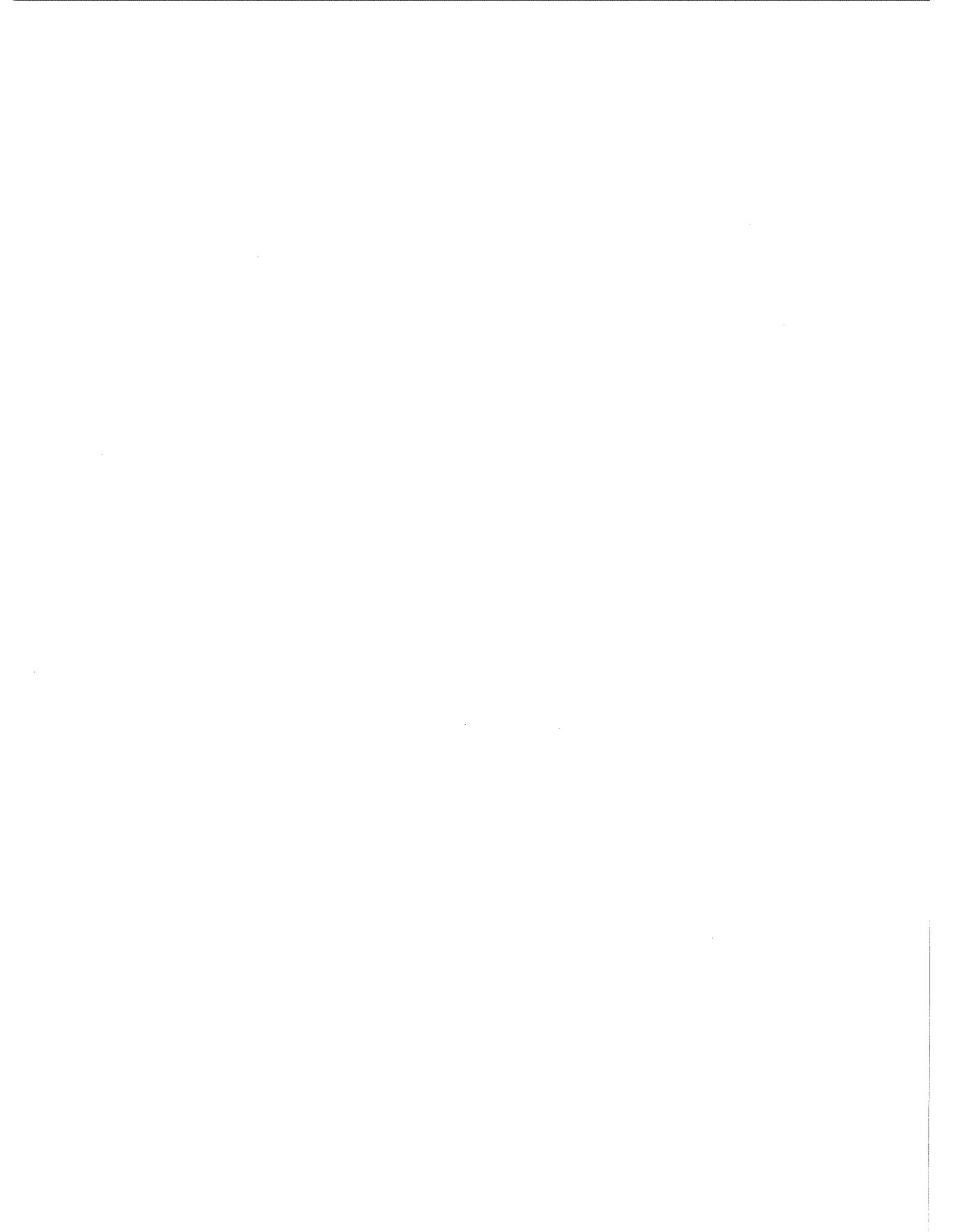
Examples of State Entities with Some Degree of Independence

Finance Authority of Maine (FAME)				
<p>“body politic and corporate”, “public instrumentality of the State”</p>	<p>Governed by a 15-member Authority; 12 members are appointed by the Governor and the other 3 are commissioners</p>	<p>Personnel -- FAME employs staff; staff are not subject to Civil Service; staff serve at the pleasure of the CEO, who is nominated by the Governor and confirmed by the Legislature</p>	<p>Budget -- FAME is subject to the state budget process set forth in Title 5, chapter 11; FAME submits an annual report to the Governor and Legislature; annual financial report must be certified by an independent CPA</p>	<p>Freedom of Access Law Applies to FAME</p> <p>Maine Tort Claims Act -- ??</p> <p>Administrative Procedures Act -- Applies to FAME</p>
Maine State Retirement System (MSRS)				
<p>“body corporate and politic”, “incorporated public instrumentality”</p>	<p>Governed by an 8-member Board of Trustees, nominated by various parties and confirmed by the Legislature</p>	<p>Personnel -- Executive Director employs personnel as necessary in accordance with Board policy; Board determines its own policies with regard to personnel and payroll.</p> <p>Collective bargaining agreements between MSRS and employees must be approved by the Legislature</p>	<p>Budget -- Board of Trustees submits an administrative operating budget to the Legislature; the Legislature allocates funds for specific uses, but the Board may transfer funds among allocations; Transfers are subject to review by the legislative committee with jurisdiction over retirement matters and Board must file financial statement</p>	<p>Freedom of Access -- ?? presume that it applies</p> <p>Maine Tort Claims Act -- Applies to MSRS</p> <p>Administrative Procedures Act -- presume it applies</p> <p>Labor relations -- covered by the Municipal Public Employees Labor Relations Act</p>

		(See transition language attached for information on impact on MSRS employee who moved from the state system to MSRS as an independent agency)	describing transfer with the Legislature's Office of Fiscal and Program Review	
Maine School of Science and Mathematics				
“public chartered school”, “body politic and corporate”, “instrumentality and agency of the State”	Governed by a 17-member Board of Trustees, including 3 teachers appointed by the Governor, 8 public members appointed by the Governor and confirmed by the Legislature, and others who are members by virtue of positions in education, higher education, local representatives and students	<p>Personnel -- MSSM personnel are not subject to Civil Service or to State certification of teachers; the MSSM Board certifies its own staff</p> <p>Personnel are included in the state retirement system, but are not included in state health insurance plan (they have a separate plan)</p> <p>MSSM hires its own attorney, but is able to use services of the Attorney General's office as needed</p>	<p>Budget -- MSSM submits a separate budget request to the Legislature (for comparison to the budget proposal of the Governor)</p> <p>MSSM gets a lump sum budget, so they can use the money as they see fit. They provide a detailed breakdown if requested in the budget process. They also provide quarterly reports to the Legislature and Governor.</p>	<p>Freedom of Access law -- Applies</p> <p>Maine Tort Claims Act -- Applies</p> <p>Administrative Procedures Act -- Applies</p> <p>Labor relations --?? -- presume Municipal Public Employees Labor Relations Act applies</p>

APPENDIX O

Possible Scenarios for Change in Governor Baxter School for the Deaf Governance



POSSIBLE SCENARIOS for CHANGE in GBSD GOVERNANCE

Scenario	Rationale / Implications
<p>A. Close the school and start over as a public school with an autonomous school board -- the only connection to the state is the appropriation of funds necessary to provide programs and services under students' IEPs.</p> <p>(Original LD 505 proposal ; Wayne Newland proposal as models)</p>	<p>1. Rationale Supporting this Proposal -- Greater autonomy would provide the school board with legitimate authority that should result in more responsive and effective governance and operation of the school. School board would determine qualifications and compensation for all personnel and would establish policies and funding necessary for educational programs, without barriers created by state bureaucratic systems or past decisions and practices. Board powers would be similar to those exercised by local school boards in governing public schools.</p> <p>2. Implications for Personnel Issues -- Employees would lose their positions and would be required to re-apply to the school board. School board would hire, fire, determine pay, negotiate and implement a contract with superintendent, faculty and staff. Employee benefits could be retained or not, depending on proposed law.</p> <p>3. Legal Implications -- It is unclear whether the school could simply shut down and start over:</p> <ul style="list-style-type: none"> • Terminating the collective bargaining agreement with the State might constitute an unconstitutional impairment of contract. • It is also possible that the "new" school would be considered a successor employer that was no different from the "old" school and the school would therefore be obligated to honor the existing contract. • Since the existing collective bargaining agreement incorporates many of the provisions of the state classification, compensation and personnel system, the school board would <u>not</u> gain immediate powers over employees until the existing contract expires. • The state would continue to be obligated to maintain Mackworth Island for state public purposes and to manage the island for wild beasts and birds, which are conditions under the deed granting Mackworth Island to the State. <p>4. Arguments Against this Proposal --</p> <ul style="list-style-type: none"> • The oversight capacity of state government will be greatly diminished by removing the public policy instruments available to state agency officials who are authorized by statute with regulatory responsibilities to protect certain public interests (i.e., IDEA, accountability for state funds, collective bargaining agreement, Gov. Baxter deed, etc.). • Greater autonomy can only be given when the school board demonstrates the capacity to perform its policy development and leadership responsibilities • Complete autonomy would require that the school board transform the school's organizational structure and establish greater administrative, government relations, and legal capacity required to: (1) manage personnel matters, including payroll, benefits, collective bargaining and employee relations; and (2) advocate for school's budget appropriation in Augusta and represent interests with other agencies and entities
<p>B. Transition to a governance system where the only connection to the state would be the appropriation of funds necessary to provide programs and services under students' IEPs.</p> <p>(MSRS as a model?)</p>	<p>1. Rationale Supporting this Proposal -- Same as "A-1" above. The transition period would provide the school board with the opportunity to improve its policy development capacity and state government with the time to establish the new governance system design in statute.</p> <p>2. Implications for Personnel -- Union employees would retain status until collective bargaining agreement ends, then status would be determined through negotiation and union votes. Employee benefits would depend on proposed law.</p> <p>3. Legal Implications -- The transition period would also allow school board, state and union officials the opportunity to avoid legal obstacles by negotiating the necessary provisions that can transform the current labor relations situation to the benefit of the new governance system.</p> <p>4. Arguments Against this proposal -- Same as "A-4" above.</p>

<p>C. Keep the current system with minimal changes to the system and specific responses recommended by the Budget & Personnel Sub-committee.</p> <p>(e.g., lump sum budget or specific fund dedicated to meeting unanticipated IEP needs?)</p>	<p>1. Rationale Supporting this Proposal -- Governing GBSD operations is a complicated enterprise that must: (a) provide quality educational programs and outreach services to students who are deaf or hard-of-hearing; and (b) comply with both federal and state laws regarding program delivery and financing obligations to ensure that these students receive a FAPE in the least-restrictive environment. The state-wide educational mission of this unique enterprise requires a governance design that features reciprocal interdependence, lateral relationships and mutual coordination between state policymakers and school officials.</p> <p>2. Implications for Personnel and Budget Issues -- This proposal would provide greater flexibility to school officials in addressing the specific personnel issues identified to date. Legislated changes regarding the budgetary and statutory authority of school officials to manage certain personnel and budget matters (e.g., lump-sum budget or a dedicated fund to meet unanticipated IEP needs) can also increase flexibility. The school could increase its capacity to manage personnel matters by hiring a personnel generalist capable of mastering the state personnel system.</p> <p>3. Arguments Against this Proposal -- The state budget and personnel systems would continue to be slow or unresponsive to the school's operational needs that arise in an ongoing basis. The current governance design requires a high level of cooperation from both state agency and school officials to identify the school's operational parameters and maximize the responsiveness of the state personnel and budget systems to serve these needs.</p>
<p>D. Keep the current system without change except for specific responses recommended by the Budget & Personnel Sub-committee.</p>	<p>1. Rationale Supporting this Proposal -- Same as "C-1" above.</p> <p>2. Implications for Personnel and Budget Issues -- Similar to "C-2" above, but limited to the specific personnel issues identified to date.</p> <p>3. Arguments Against this Proposal -- Same as "C-3" above.</p>