

MAINE STATE LEGISLATURE

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STATE OF MAINE
125TH LEGISLATURE
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON EDUCATION AND
CULTURAL AFFAIRS**

June 2012

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STATE OF MAINE

125TH LEGISLATURE
SECOND REGULAR SESSION



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all LDs and adopted amendments and all laws enacted or finally passed during the Second Regular Session of the 125th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

<i>CARRIED OVER</i>	<i>carried over to a subsequent session of the Legislature</i>
<i>CON RES XXX</i>	<i>chapter # of constitutional resolution passed by both houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; legislation died</i>
<i>DIED BETWEEN HOUSES</i>	<i>House & Senate disagreed; legislation died</i>
<i>DIED IN CONCURRENCE</i>	<i>defeated in each house, but on different motions; legislation died</i>
<i>DIED ON ADJOURNMENT</i>	<i>action incomplete when session ended; legislation died</i>
<i>EMERGENCY</i>	<i>enacted law takes effect sooner than 90 days after session adjournment</i>
<i>FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE</i>	<i>emergency failed to receive required 2/3 vote</i>
<i>FAILED, ENACTMENT or FINAL PASSAGE</i>	<i>failed to receive final majority vote</i>
<i>FAILED, MANDATE ENACTMENT</i>	<i>legislation proposing local mandate failed required 2/3 vote</i>
<i>HELD BY GOVERNOR</i>	<i>Governor has not signed; final disposition to be determined at subsequent session</i>
<i>LEAVE TO WITHDRAW</i>	<i>sponsor's request to withdraw legislation granted</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>ruled out of order by the presiding officer; legislation died</i>
<i>INDEF PP</i>	<i>indefinitely postponed; legislation died</i>
<i>ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X</i> ...	<i>ought-not-to-pass report accepted; legislation died</i>
<i>P&S XXX</i>	<i>chapter # of enacted private & special law</i>
<i>PUBLIC XXX</i>	<i>chapter # of enacted public Law</i>
<i>RESOLVE XXX</i>	<i>chapter # of finally passed resolve</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's veto</i>

The effective date for non-emergency legislation enacted in the Second Regular Session of the 125th Legislature is Thursday, August 30, 2012. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

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LD 1724 Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a Major Substantive Rule of the Department of Education

**RESOLVE 134
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-749

This resolve provides for legislative review of portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a major substantive rule of the Department of Education.

Committee Amendment "A" (H-749)

This amendment provides that final adoption of portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a provisionally adopted major substantive rule of the Department of Education, is authorized contingent upon the department's making specified changes to the proposed rule. The amendment also provides that final adoption of certain sections and the appendix of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a provisionally adopted major substantive rule of the Department of Education, that were submitted to the Legislature for review in LD 1782 to ensure that the Chapter 101 rule complies with changes in federal regulations pertaining to the Part C provisions of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., as amended, is authorized.

Enacted Law Summary

Resolve 2011, chapter 134 provides that final adoption of portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a provisionally adopted major substantive rule of the Department of Education, is authorized contingent upon the department making specified changes to the proposed rule. The law also provides that final adoption of certain sections and the appendix of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a provisionally adopted major substantive rule of the Department of Education, that were submitted to the Legislature for review in LD 1782 to ensure that the Chapter 101 rule complies with changes in federal regulations pertaining to the Part C provisions of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., as amended, is authorized.

Resolve 2011, chapter 134 was finally passed as an emergency measure effective March 20, 2012.

LD 1742 An Act To Amend Education Laws

PUBLIC 678

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON D	OTP-AM MAJ OTP-AM MIN	H-757 S-602 ROSEN R

This bill, submitted by the Department of Education, amends and clarifies certain education statutes.

Part A amends and clarifies audit requirements in order for the State and school administrative units to be in compliance with federal regulations. Part A also enacts statutory language requiring the audit of state-funded school construction projects and repeals language that is no longer necessary.

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Part B requires that the regional school unit budget meeting occur within 30 days after the failure of the budget validation referendum.

Part C repeals the Maine Revised Statutes, Title 20-A, chapter 109, which establishes the union school governance structure, and fixes cross-references to that chapter. There are no longer any school administrative units using this governance structure. It also repeals statutory language that applies to school construction projects approved prior to July 1, 1985 and clarifies statutory language that applies to current school construction projects.

Part D revises school construction language to be in compliance with the current funding requirements.

Part E clarifies the treatment of foreign exchange students and students who do not reside in the State for the purposes of counting students for state subsidy.

Part F repeals the addition of targeted funds to the elementary tuition rate for students who are residents of the unorganized territory to be consistent with the repeal of the addition of targeted funds to the secondary tuition rate by Public Law 2009, chapter 213.

Part G refines state requirements for summer school tuition rates for the first year of operation.

Part H reinstates the statutory requirement for school administrative units to operate education programs for gifted and talented students. It repeals outdated language related to funding and clarifies that approved gifted and talented education program costs are subsidizable costs under the Essential Programs and Services Funding Act.

Part I corrects a reference in the Maine Revised Statutes, Title 20-A, section 7001, subsection 2-C from Part C of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1414(d)(1)(B) to Part B.

Committee Amendment "A" (H-757)

This amendment is the majority report of the Joint Standing Committee on Education and Cultural Affairs. The amendment makes the following changes to the bill.

1. It provides that the required annual audit of school administrative units must include a determination of whether the school administrative unit has complied with unexpended balances requirements established under the Maine Revised Statutes, Title 20-A, section 15004.
2. It requires that the regional school unit budget meeting occur within 45 days after the failure of a budget validation referendum. The bill requires that the regional school unit budget meeting must occur within a 30-day time period.
3. It includes a definition of "foreign exchange student," with reference to federal laws and regulations, in the laws governing who is eligible to be counted as a resident student for state subsidy purposes.
4. It provides that a school administrative unit that did not operate a gifted and talented program in the 2011-2012 school year may apply to the Commissioner of Education for a one-year waiver if full implementation of the requirement presents an undue burden.
5. It provides that the rules amended or adopted by the Department of Education must establish the provisions applicable to the Commissioner of Education's authority to grant a one-year waiver to a school administrative unit that did not operate a gifted and talented program in the 2011-2012 school year. The rules must also address the commissioner's authority to review additional extension requests on an annual basis.
6. It amends the requirement in current law that provides that a municipality may withdraw from a regional school

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unit only after a 2/3 vote approves a withdrawal agreement that is placed before the voters of the municipality in a municipal election. The amendment:

A. Provides that a municipality may withdraw from a regional school unit only after the withdrawal agreement is approved by a majority vote of those casting valid votes in the municipality and the total number of votes cast for and against the withdrawal agreement equals or exceeds 50% of the total number of votes cast in the municipality for Governor at the last gubernatorial election. These requirements are repealed January 1, 2015, at which time the 2/3 vote requirement will be reinstated; and

B. Provides an exception for a member municipality of a school administrative district that was reformulated as a regional school unit pursuant to Public Law 2007, chapter 240, Part XXXX, section 36, subsection 12 by continuing to require a 2/3 vote of those casting valid votes in the municipality before the member municipality of the reformulated school administrative district may withdraw from the regional school unit. This requirement is repealed January 1, 2015.

7. It amends the supermajority vote needed to close a school within a regional school unit by providing that a school may not be closed for lack of need unless closure of the school is approved by an affirmative vote of 2/3 of the elected membership or voting power of those serving on the regional school unit board of directors at the time of the vote.

Senate Amendment "A" To Committee Amendment "A" (S-602)

This amendment adds a mandate preamble.

Enacted Law Summary

Public Law 2011, chapter 678 amends and clarifies certain education statutes. The law does the following.

This amendment is the majority report of the Joint Standing Committee on Education and Cultural Affairs. The amendment makes the following changes to the bill.

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1. It provides that the required annual audit of school administrative units must include a determination of whether the school administrative unit has complied with unexpended balances requirements established under the Maine Revised Statutes, Title 20-A, section 15004.
2. It requires that the regional school unit budget meeting occur within 45 days after the failure of a budget validation referendum. The bill requires that the regional school unit budget meeting must occur within a 30-day time period.
3. It includes a definition of "foreign exchange student," with reference to federal laws and regulations, in the laws governing who is eligible to be counted as a resident student for state subsidy purposes.
4. It provides that a school administrative unit that did not operate a gifted and talented program in the 2011-2012 school year may apply to the Commissioner of Education for a one-year waiver if full implementation of the requirement presents an undue burden.
5. It provides that the rules amended or adopted by the Department of Education must establish the provisions applicable to the Commissioner of Education's authority to grant a one-year waiver to a school administrative unit that did not operate a gifted and talented program in the 2011-2012 school year. The rules must also address the commissioner's authority to review additional extension requests on an annual basis.

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6. It amends the requirement in current law that provides that a municipality may withdraw from a regional school unit only after a 2/3 vote approves a withdrawal agreement that is placed before the voters of the municipality in a municipal election. The amendment:

A. Provides that a municipality may withdraw from a regional school unit only after the withdrawal agreement is approved by a majority vote of those casting valid votes in the municipality and the total number of votes cast for and against the withdrawal agreement equals or exceeds 50% of the total number of votes cast in the municipality for Governor at the last gubernatorial election. These requirements are repealed January 1, 2015, at which time the 2/3 vote requirement will be reinstated; and

B. Provides an exception for a member municipality of a school administrative district that was reformulated as a regional school unit pursuant to Public Law 2007, chapter 240, Part XXXX, section 36, subsection 12 by continuing to require a 2/3 vote of those casting valid votes in the municipality before the member municipality of the reformulated school administrative district may withdraw from the regional school unit. This requirement is repealed January 1, 2015.

7. It amends the supermajority vote needed to close a school within a regional school unit by providing that a school may not be closed for lack of need unless closure of the school is approved by an affirmative vote of 2/3 of the elected membership or voting power of those serving on the regional school unit board of directors at the time of the vote.

LD 1762 An Act To Amend and Clarify the Public Charter School Law

PUBLIC 570

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MASON	OTP-AM MAJ ONTP MIN	S-422 S-451 LANGLEY

This bill amends the law authorizing creation of public charter schools. The bill makes the following changes with regard to authorizers of public charter schools. It allows the Commissioner of Education to suspend an authorizer's authority to enter into new charter contracts if the commissioner finds the authorizer is deficient in performing its functions. It clarifies the functioning of local school boards that join together to form a regional charter school. It clarifies membership and operations of the State Charter School Commission, including specifying members who are appointed because of their membership on the State Board of Education continue to serve on the commission only as long as they are members of the State Board of Education. It provides the transitional 10-school limit on public charter schools in current law applies only to schools approved by the commission. It requires a public charter school authorizer to give a public charter school written notice of deficiencies in the school and to provide written notice of the authorizer's charter revocation procedures and criteria.

The bill makes the following changes with regard to public charter schools. It provides governing boards of public charter schools are subject to the same conflict of interest provisions as noncharter public school boards. It clarifies when public charter schools take over responsibility for special education services for a student transferring from a noncharter public school and clarifies special education funding. The bill changes the law regarding payment of special education funds to a public charter school authorized by a local school board by requiring the payments be made to the local school board, not to the public charter school. The bill ensures a public charter school student has the same access to career and technical education programs as students in the noncharter public school in the student's resident school administrative unit.

Under current laws, if a school administrative unit fails to make payment to a public charter school, the Treasurer of