

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 APPROPRIATIONS AND
FINANCIAL 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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Enacted Law Summary

Public Law 2011, chapter 671 makes a technical correction to language contained in Public Law 2009, chapter 213 that authorizes the Maine Governmental Facilities Authority to issue securities for the costs associated with court facilities and allows any remaining funds from authorized securities issued for paying the costs associated with the construction of a new courthouse in Augusta, the renovation of a courthouse in Dover-Foxcroft and the planning and construction of court facilities upgrades in Machias to be used for planning for additional court facilities.

LD 1713 An Act To Restore Supplemental Health Insurance Coverage for Disabled Children of State Retirees ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SARTY COLLINS	ONTP	

Prior to 2011, the State covered the cost of health insurance coverage for retirees' disabled dependents 19 years of age and older. This bill restores that practice.

LD 1746 An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2013 PUBLIC 657

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROSEN R	OTP-AM MAJ OTP-AM MIN	H-974 FLOOD S-572 S-587 ROSEN R S-589 ROSEN R

This bill is the Governor's proposal to address a projected shortfall in the MaineCare program in the 2012-2013 biennium.

Some provisions in this proposal are incorporated into LD 1816, which was enacted as Public Law 2011, chapter 477, to address the shortfall in the Maine Care program in fiscal year 2011-12.

Committee Amendment "A" (S-572)

This amendment is the majority report of the committee in response to the Governor's proposed bill.

Senate Amendment "J" To Committee Amendment "A" (S-589)

This amendment makes technical changes to Committee Amendment "A". The amendment:

1. Corrects a program number in Part A;

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2. Amends Part J to clarify that the Maine Public Employees Retirement System may request drafting assistance from the Legislative Council, rather than from specific legislative offices;
3. Amends Part N to change the date of the sales tax refund for depreciable machinery and equipment purchases used for commercial wood harvesting and commercial greenhouse and nursery products from January 1, 2014 to July 1, 2013;
4. Amends Part O to clarify that prescription monitoring information must be de-identified as to prescriber and patient;
5. Amends Part P to make consistent several references to the term "qualified active low-income community business"; and
6. Amends Part Q to change the program period and approved payment plan for the 2012 Maine Use Tax Compliance Program.

House Amendment "L" To Committee Amendment "A" (H-974)

This amendment makes 2 technical changes to Committee Amendment "A". The first change corrects a program number to assign it to the proper Departmentwide program in the Department of Health and Human Services. The 2nd change adds a provision in the contingent transfer from the Maine Budget Stabilization Fund (Part D) to avoid a potential discrepancy between the accounting and budgetary records of the Office of the State Controller and the Bureau of the Budget in the Department of Administrative and Financial Services.

Senate Amendment "H" To Committee Amendment "A" (S-587)

This amendment does the following:

1. Amends Part D of Committee Amendment "A" to transfer \$13,000,000 from the General Fund unappropriated surplus to the Maine Budget Stabilization Fund during fiscal year 2012-13;
2. Provides for a method of repayment of federal funds received for ineligible MaineCare recipients;
3. Amends Part K of Committee Amendment "A" to reduce by \$250,000 the transfer from the Ground Water Oil Clean-up Fund, Other Special Revenue Funds account in the Department of Environmental Protection to General Fund unappropriated surplus at the close of fiscal year 2012-13;
4. Adds a Part II that requires that any balances of appropriations provided for consent decree activities in the Department of Health and Human Services, Mental Health Services - Community program carry forward at the end of each fiscal year to be used in the next fiscal year for the same purpose; and
5. Adds a Part JJ that provides funds to serve individuals on the waiting list for services for individuals with intellectual disabilities or autism; reduces funding for behaviorally challenged children in a residential setting; provides funds to offset a deappropriation in Committee Amendment "A"; and provides funds to offset a 10% rate reduction in adult family care services in Public Law 2011, chapter 477.

Enacted Law Summary

Public Law 2011, chapter 657 results in a net cost to the General Fund of \$56,642,455 and a net cost of \$3,196,777 to the Fund for a Healthy Maine in fiscal year 2012-13.

PART A makes appropriations and allocations. This part includes an appropriation of \$4,297,669 and Other Special Revenue allocations totaling \$1,895,824 related to the General Assistance program within the Department of Health and Human Services and an appropriation of \$3,176,972 to offset a reduction in federal disproportionate share payments for certain individuals involved in the criminal justice system and confined to the Riverview Psychiatric

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Center. These appropriations were included in LD 1903 as enacted by the Legislature but vetoed by the Governor pursuant to Article IV Part Third Section 2-A of the Constitution of the State of Maine.

PART B transfers \$1,500,000 from the available balance in the Administrative Services - Professional and Financial Regulation program, Other Special Revenue Funds account within the Department of Professional and Financial Regulation to the General Fund unappropriated surplus at the close of fiscal year 2012-13.

PART C requires a transfer of up to \$25,000,000 from the General Fund unappropriated surplus at the close of fiscal year 2012-13 for hospital settlements. This year-end transfer is in addition to the \$25,000,000 transfer previously authorized at the close of fiscal year 2011-12. These hospital settlement transfers are the next priority in the list of "cascade" transfers after the transfer to the reserve for retirement costs that provides resources for ad hoc cost-of-living adjustments for retirees of the Maine Public Employees Retirement System. It also transfers any excess funds above the amounts currently budgeted to be credited to the Department of Education for essential programs and services for kindergarten to grade 12 under the Maine Revised Statutes, Title 20-A, chapter 606-B in fiscal year 2012-13 from the Oxford Casino slot machine and table game proceeds to the Medical Care - Payments to Providers Other Special Revenue Funds account to be used to fund hospital settlements.

PART D transfers \$13,000,000 from the General Fund unappropriated surplus to the Maine Budget Stabilization Fund during fiscal year 2012-13. It also authorizes an emergency transfer of up to \$7,360,045 from the Maine Budget Stabilization Fund to the Riverview Psychiatric Center program, General Fund account in the Department of Health and Human and up to \$3,791,770 to the Medical Care - Payments to Providers, federal Expenditures Fund account in fiscal year 2012-13 under certain conditions in order to repay federal funds.

PART E eliminates the transfer of up to \$2,500,000 of slot machine income to the Fund for a Healthy Maine for the fiscal year ending June 30, 2013.

PART F increases the cap on the combined amount that the Finance Authority of Maine may have in its Loan Insurance Reserve and Maine Mortgage Insurance Fund from \$35,000,000 to \$40,000,000 and increases the amount required to be paid by the Finance Authority of Maine from the Loan Insurance Reserve Fund to the State as undedicated General Fund revenue by June 30, 2013 from \$1,000,000 to \$3,000,000.

PART G specifies how the reduction in Fund for a Healthy Maine funding for community school grants is to be implemented.

PART H continues MaineCare funding for critical access hospitals at 109% of MaineCare allowable costs for both inpatient and outpatient services and continues funding for critical access hospital staff enhancement payments, both effective retroactively to April 1, 2012. It also repeals the provisions in current law requiring the Department of Health and Human Services to change to a system of reimbursement to critical access hospitals for inpatient services based on diagnosis-related groupings and for outpatient services based on ambulatory payment classifications.

PART I adds public charter schools to the definition of "local district" to allow those schools to be eligible to participate in the Maine Public Employees Retirement System as participating local districts. This Part also provides language to clarify that public charter schools are not included in the definition of "public school."

PART J requires the Maine Public Employees Retirement System to submit proposed legislation to implement a new combination defined benefit and defined contribution retirement plan selected by the working group established pursuant to Public Law 2011, chapter 380, Part U, section 2 and described in the "New Pension Plan Design and Implementation Plan" report dated March 2012 and authorizes the joint standing committee of the Legislature having jurisdiction over state employee and teacher retirement matters to submit a bill to implement a new retirement plan to the First Regular Session of the 126th Legislature.

PART K transfers \$250,000 from the Ground Water Oil Clean-up Fund, Other Special Revenue Funds account in

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the Department of Environmental Protection to General Fund unappropriated surplus at the close of fiscal year 2012-13.

PART L gives the Department of Health and Human Services the authority to adopt emergency rules to implement any provisions of this legislation over which the department has subject matter jurisdiction for which specific authority has not been addressed by some other part of this legislation.

PART M exempts from Maine income tax active duty military pay earned outside of Maine for service performed pursuant to written military orders during tax years beginning on or after January 1, 2014.

PART N expands, beginning July 1, 2013, the scope of the Maine Revised Statutes, Title 36, section 2013, which provides for the refund of sales tax on purchases of depreciable machinery and equipment used for commercial agricultural production and certain other purposes, to include items used in commercial wood harvesting and in the commercial production of crops, plants, trees, compost and livestock.

PART O repeals the restriction on MaineCare reimbursement for opioid drugs enacted in Public Law 2011, chapter 477, Part O and enacts a replacement protocol for prescribing and requirements for reimbursement for opioid drugs.

PART P amends the Maine New Markets Tax Credit program to increase the maximum amount of capital or equity investment in, or loan to, a qualified active low-income community business from \$10,000,000 to \$40,000,000 if that business is a manufacturing or value-added production enterprise that projects to create or retain more than 200 jobs.

PART Q establishes the 2012 Maine Use Tax Compliance Program to run from October 1, 2012, to November 30, 2012, to facilitate the discovery and recovery of unreported use tax. The program provides for the waiver of penalties if the tax and interest are paid during the program period, absolves participating taxpayers meeting the conditions of the program from further liability for use taxes incurred prior to January 1, 2012, absolves such taxpayers from liability for criminal prosecution and civil penalties related to those taxes and allows for payments through an approved payment plan.

PART R amends the income tax subtraction modification for certain retirement benefits to raise the \$6,000 limit to \$10,000 for tax years beginning on or after January 1, 2014. The subtraction modification is expanded to include all federally taxable pension income, annuity income and individual retirement account distributions, except pick-up contributions for which a deduction has been allowed.

PART S includes the provisions of Committee Amendment "A" to L.D. 1840, An Act To Limit MaineCare Reimbursement for Methadone Treatment. It provides that, effective January 1, 2013, reimbursement under the MaineCare program for methadone for the treatment of addiction to opiates is limited to a lifetime maximum of 24 months, except that reimbursement may be provided for longer than 24 months if prior authorization is received from the Department of Health and Human Services.

PART T establishes the MaineCare Redesign Task Force to make recommendations to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters on the redesign of the MaineCare program in order to achieve General Fund savings of \$5,250,000 in fiscal year 2012-13. This Part provides a process for the Legislature's obtaining adequate information to achieve MaineCare redesign and provides for curtailment of allotments by the Governor in the event the Legislature does not enact a redesign plan.

PART U requires the Department of Health and Human Services to prepare a global Medicaid waiver, submit the proposed waiver for review by the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services and submit the waiver as a resolve for approval by the 126th Legislature.

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Parts V, W, X and Y incorporate the provisions in LD 1830 as amended by Committee Amendment "A" and House Amendment "C".

PART V establishes the Department of Agriculture, Conservation and Forestry. It directs the Department of Agriculture, Conservation and Forestry to assume the duties and responsibilities of the current Department of Agriculture, Food and Rural Resources and the current Department of Conservation. It does not repeal any provisions of the Maine Revised Statutes, Title 7, which sets forth the laws and policies implemented by the current Department of Agriculture, Food and Rural Resources, or of Title 12, which sets forth the laws and policies implemented by the current Department of Conservation. It eliminates one commissioner position. It expresses the intent of the Legislature that a bill to consolidate relevant portions of the Maine Revised Statutes be enacted into law by the 126th Legislature and provides that if such a bill is not enacted into law by the date on which the 127th Legislature convenes then the statute that establishes the consolidated department is repealed.

PART W contains transition provisions for the establishment of the Department of Agriculture, Conservation and Forestry.

PART X renames the Bureau of Forestry, Division of Forest Protection and amends the membership of the Land for Maine's Future Board and the Interagency Task Force on Invasive Aquatic Plants and Nuisance Species to reflect the consolidation of the Department of Agriculture, Food and Rural Resources and the Department of Conservation into one department with one commissioner.

PART Y amends the lists of officials in certain salary ranges to reflect changes made by the consolidation of the Department of Agriculture, Food and Rural Resources and the Department of Conservation into the Department of Agriculture, Conservation and Forestry.

PART Z reduces the eligibility threshold for Medicaid services for a parent or a caretaker relative of an eligible child from a maximum of 133% of the nonfarm income official poverty line to 100% effective October 1, 2012, contingent upon the Department of Health and Human Services' receiving a waiver of the maintenance of effort requirements of the federal Patient Protection and Affordable Care Act or being notified that such a waiver is not necessary.

Parts AA, BB, CC, DD, EE and FF incorporate the provisions in LD 1887 as amended by Committee Amendment "A."

PART AA eliminates as a separate and distinct office within the Department of Health and Human Services the Office of Substance Abuse.

PART BB eliminates as a separate and distinct office within the Department of Health and Human Services the Office of Elder and Adult Services.

PART CC eliminates as a separate and distinct office within the Department of Health and Human Services the Office of Adults with Cognitive and Physical Disability Services.

PART DD eliminates as a separate and distinct office within the Department of Health and Human Services the Office of Adult Mental Health Services.

PART EE eliminates the Office of Advocacy within the Department of Health and Human Services and directs the department to contract with an agency to provide services to individuals with intellectual disabilities and autism.

PART FF directs the Commissioner of Health and Human Services to review the current organizational structure, systems and operations of the Department of Health and Human Services and restructure the department in order to improve and streamline services.

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PART GG requires the Department of Health and Human Services to submit a Medicaid state plan amendment effective October 1, 2012, to eliminate Medicaid coverage for individuals who are 19 or 20 years of age, who have incomes less than or equal to 150% of the nonfarm income official poverty line, who do not live with a dependent child and who are not otherwise eligible for Medicaid, subject to a contingency that the department receive a waiver of the maintenance of effort requirements of the federal Patient Protection and Affordable Care Act or is notified that such a waiver is not necessary.

PART HH reduces income eligibility for the Department of Health and Human Services' elderly low-cost drug program from 185% to 175% of the federal poverty level and for the Medicare savings program as follows: for the Qualified Medicare Beneficiary program, to income not more than 140% of the federal poverty level; for the Specified Low-Income Medicare Beneficiary program, to income more than 140% but not more than 160% of the federal poverty level; and for the Qualified Individuals program, to income more than 160% but not more than 175% of the federal poverty level. This Part also provides that the changes in income eligibility levels for the Medicare savings program are subject to the department's receiving written approval of the application for a waiver of the maintenance of effort requirements of the federal Patient Protection and Affordable Care Act or receiving written notification that such a waiver is not necessary.

PART II requires that any balances of appropriations provided for consent decree activities in the Department of Health and Human Services, Mental Health Services - Community program carry forward at the end of each fiscal year to be used in the next fiscal year for the same purpose.

PART JJ provides funds to serve individuals on the waiting list for services for individuals with intellectual disabilities or autism; reduces funding for behaviorally challenged children in a residential setting; provides funds to offset a deappropriation in Committee Amendment "A"; and provides funds to offset a 10% rate reduction in adult family care services in Public Law 2011, chapter 477.

LD 1816 An Act To Implement the Recommendations of the Streamline and Prioritize Core Government Services Task Force for the Fiscal Years Ending June 30, 2012 and June 30, 2013 and To Make Certain Other Allocations and Appropriations and Changes to the Law Necessary to the Operation of State Government

**PUBLIC 477
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	H-707 FLOOD

This bill represents the Joint Standing Committee on Appropriations and Financial Affairs' unanimous recommendations after reviewing the report of the Streamline and Prioritize Core Government Services Task Force authorized in Public Law 2011, chapter 380, Part KKK. The task force recommendations as amended by the Committee can be found in Parts A through L of this bill.

This bill also includes adjustments to appropriations and allocations and other necessary changes to the laws to address a shortfall within the MaineCare program in the Department of Health and Human Services in fiscal year 2011-12. The fiscal year 2011-12 appropriations to the various MaineCare accounts are offset through deappropriations and transfers in various accounts in each year of the 2012-2013 biennium. The unanimous recommendations of the Committee to address the fiscal year 2011-12 shortfall are contained in Part M to Part II. Some of the initiatives contained in this bill are similar to certain initiatives proposed by the Governor in LD 1746.

House Amendment "D" (H-707)