

MAINE STATE LEGISLATURE

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STATE OF MAINE
126TH LEGISLATURE
FIRST REGULAR SESSION



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

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

July 2013

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STATE OF MAINE

126TH LEGISLATURE
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LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 126th 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.

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

The effective date for non-emergency legislation enacted in the First Regular Session of the 126th Legislature is October 9, 2013. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Education and Cultural Affairs

LD 194 An Act To Ensure That a Curtailment in School Funding Is Shared by All Institutions ONTP

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| KUSIAK | ONTP | |

This bill is a concept draft pursuant to Joint Rule 208. The bill proposes to ensure that if the Governor curtails funding for the state share of the costs of education the reduction in state funding must be shared equally by all entities receiving public funds for education purposes, including public schools, private schools and charter schools.

LD 195 An Act To Fund Education by Providing Equal State Funding for Each Student ONTP

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| MALABY CUSHING | ONTP | |

This bill is a concept draft pursuant to Joint Rule 208. The bill proposes to amend the school funding formula to require equal funding for each kindergarten to grade 12 student attending Maine public schools based on the pupil counts for April 1st and October 1st for the most recent calendar year.

LD 233 An Act To Require the Department of Education To Report on the Costs and Sources of Funding of Charter Schools LEAVE TO WITHDRAW

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| MILLETT NELSON | | |

This bill directs an authorizer of public charter schools to report yearly to the Commissioner of Education the total amount of funds expended by each public charter school authorized by that authorizer and the source of those funds and directs the Department of Education to report by July 1st of each year to the Governor, the Legislature and the public the overall cost and source of funds for all public charter schools in the State and the overall cost and source of funds for each public charter school.

LD 243 Resolve, To Direct the Department of Education To Amend Its Rules Regarding Restraint of Students RESOLVE 8 EMERGENCY

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| SAVIELLO BLACK | OTP-AM | S-6 |

This resolve directs the Department of Education to amend its Rule Chapter 33: Rule Governing Physical Restraint and Seclusion, which limits the use of restraint and seclusion. The current rule allows the use of those interventions only to prevent an imminent risk of injury or harm to a student or others. This resolve requires the rule to be changed to allow the use of restraint or seclusion to prevent significant property damage, to prevent disruption of the educational environment and when authorized in writing by a student's parent. The resolve also requires the rule to exclude some specific, limited techniques from the definition of "physical restraint," and to amend the definition

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of "physical escort" to include picking up younger students. The resolve requires the department to make the required changes in the rule within 7 business days of the effective date of the resolve.

Committee Amendment "A" (S-6)

This amendment strikes and replaces the resolve to direct the Department of Education to amend its Rule Chapter 33: Rule Governing Physical Restraint and Seclusion, which limits the use of restraint and seclusion. The current rule allows the use of those interventions only to prevent an imminent risk of injury or harm to a student or others. This resolve requires the rule to be changed as follows.

1. It provides that the threshold for the use of physical restraint or seclusion is to prevent the risk of injury or harm to the child.
2. It clarifies the definition of physical escort.
3. It clarifies that physical restraint does not include a brief period of physical contact necessary to break up a fight.
4. It provides that the department is required to provide consistent and accurate information regarding the requirements of the rule annually to teachers and administrators throughout the State.
5. It retains the provision in the resolve that requires the department to file the specific changes to the rule required by this resolve with the Secretary of State within seven business days of the effective date of the resolve, but it clarifies that these rule changes are routine technical rules, but that any changes to the rule on or after July 1, 2013 are major substantive rules.

The amendment also requires the department to present a report describing the implementation of the changes to the rule, including the effect of these changes on relevant stakeholders, to the Joint Standing Committee on Education and Cultural Affairs not later than January 10, 2014.

Finally, the amendment requires the department to develop nonregulatory guidance regarding the amendments to the rule so that teachers and administrators have accurate information regarding these revised requirements. The department is required to submit a report detailing its guidance and related training efforts to the Joint Standing Committee on Education and Cultural Affairs before the end of the Second Regular Session of the 126th Legislature.

Enacted Law Summary

Resolve 2013, chapter 8 provides that final adoption of Chapter 33: Rule Governing Physical Restraint and Seclusion, a provisionally adopted major substantive rule of the Department of Education, is authorized contingent upon the department making changes to the rule that:

1. Provide that the threshold for the use of physical restraint or seclusion is to prevent the risk of injury or harm to the child;
2. Clarify the definition of physical escort;
3. Clarify that physical restraint does not include a brief period of physical contact necessary to break up a fight;
4. Provide that the department is required to provide consistent and accurate information regarding the requirements of the rule annually to teachers and administrators throughout the State.
5. Require the department to file the specific changes to the rule required in this resolve with the Secretary of State within seven business days of the effective date. These rule changes are routine technical rules but that any changes made to the rule on or after July 1, 2013 are major substantive rules.

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The resolve also requires the department to present a report describing the implementation of the changes to the rule, including the effect of these changes on relevant stakeholders, to the Joint Standing Committee on Education and Cultural Affairs not later than January 10, 2014.

Finally, the resolve requires the department to develop nonregulatory guidance regarding the amendments to the rule so that teachers and administrators have accurate information regarding these revised requirements. The department is required to submit a report detailing its guidance and related training efforts to the Joint Standing Committee on Education and Cultural Affairs before the end of the Second Regular Session of the 126th Legislature.

Resolve 2013, chapter 8 was finally passed as an emergency measure effective April 15, 2013.

LD 244 An Act To Amend the Student Membership Criteria of the State Board of Education

**PUBLIC 15
EMERGENCY**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|---------------------|-------------------------|---------------------------|
| MILLETT DAUGHTRY | OTP | |

This bill changes the criteria for the student members of the State Board of Education. Current law requires a student to reside in the congressional district that the student represents at the time of appointment. This bill requires the student to attend school in the congressional district the student represents at the time of appointment.

Enacted Law Summary

Public Law 2013, chapter 15 changes the criteria for the student members of the State Board of Education. The law requires a student to reside to attend school in the congressional district the student represents at the time of appointment.

Public Law 2013, chapter 15 was enacted as an emergency measure effective April 8, 2013.

**LD 299 RESOLUTION, Proposing an Amendment to the Constitution of Maine
To Require the State Share of Education Funding To Be at Least
Fifty-five Percent of the Total Cost and One Hundred Percent of the
Cost of Special Education**

ONTP

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| JONES | ONTP | |

This resolution proposes to amend the Constitution of Maine to require the Legislature to appropriate sufficient state funds to cover at least 55% of the total state and local cost of funding public education from kindergarten to grade 12 and 100% of the state and local costs of special education as approved pursuant to citizen-initiated legislation in 2004.