



2018 Supplemental Summary of New Maine Laws

State of Maine 128th Legislature, 2nd Special Session
June 19, 2018 – September 13, 2018

November 30, 2018

Pierce Atwood. There's a reason...

Introduction

This 2018 Supplemental Summary includes laws **enacted during the 128th Maine Legislature's Second Special Session** that convened on June 19, 2018 and adjourned on September 13, 2018. The effective date of non-emergency legislation enacted during this Second Special Session is December 13, 2018, unless the legislation provides specific effective dates. Emergency legislation became effective on the date they were signed by the Governor, or the date the Governor's veto was overridden by the Legislature. This 2018 Supplemental Summary includes those new laws that are most relevant to our clients and does not include all laws enacted during the Second Special Session.

To access past sessions, including the 128th Second Regular Session that adjourned on May 2, 2018, please visit our [Annual Summaries of New Maine Laws](#).

User Guide

The summary is organized by subject matter and subcategories.

- You may link from the [Table of Contents](#) directly to your area of interest.
- Each legislative document is assigned an "LD #" for reference through the legislative process. Once the legislation becomes law, it is assigned a Public Law year and chapter number for reference. The Public Law year is the year of the Legislature's First Regular Session, which was 2017 for the 128th Legislature. Ultimately, the language is incorporated into the Maine Statutes.
- In the electronic version of this summary, the chapter number links to the new law.
- Unless specific effective dates are provided in the legislation, the effective date of non-emergency legislation enacted during the Second Special Session is December 13, 2018. Emergency bills became effective as law on the date they were signed by the Governor, or the date the Governor's veto was overridden by the Legislature, which we note in red following the chapter number of laws and resolves enacted as emergencies.

For More Information

If you have any questions about a summary, what a statutory change means, or how to prepare for the next legislative session, please contact a member of our [Government Relations Group](#): [Andrea Cianchette Maker](#) – 207.791.1101; [Ann Robinson](#) – 207.791.1186; [John D. Delahanty](#) – 207.791.1222; [Elizabeth M. Frazier](#) – 207.791.1155; or [Alexander Price](#) – 207.629-5904.

Disclaimer

This 2018 Supplemental Summary is not intended to provide a detailed legal analysis of all aspects of the new laws summarized. For legal advice and counsel, please contact a Pierce Atwood attorney.

[Return to Table of Contents](#)

Table of Contents

<u>Bond Issues</u>	Page 5
<u>LD 836, An Act to Authorize a General Fund Bond Issue to Build Maine’s Workforce Development Capacity by Modernizing and Improving the Facilities and Infrastructure of Maine’s Public Universities and Community Colleges</u>	
<u>LD 1815, An Act to Authorize a General Fund Bond Issue to Improve Multimodal Facilities, Highways and Bridges and Municipal Culverts</u>	
<u>Business</u>	Page 6
<u>LD 238, An Act to Amend the Maine Medical Use of Marijuana Act</u>	
<u>LD 1584, An Act to Expand the Local Foods Economy by Promoting Local Foods Procurement</u>	
<u>LD 1654, An Act to Protect Economic Competitiveness in Maine by Extending the End Date for Pine Tree Development Zone Benefits and Making Other Changes to the Program</u>	
<u>Education & Workforce Development</u>	Page 8
<u>LD 1666, An Act to Ensure the Successful Implementation of Proficiency-based Diplomas</u>	
<u>LD 1869, An Act to Establish the Total Cost of Education and the State and Local Contributions to Education for Fiscal Year 2018-19</u>	
<u>LD 1924, An Act to Improve Information Sharing Relative to Investigations of Educators</u>	
<u>Election Laws</u>	Page 9
<u>LD 1865, An Act to Increase Transparency in the Direct Initiative Process</u>	
<u>Energy</u>	Page 10
<u>LD 1729, An Act to Restore Confidence in Utility Billing Systems</u>	
<u>Environmental & Renewables</u>	Page 11
<u>LD 1510, An Act to Authorize a General Fund Bond Issue to Fund Wastewater Infrastructure Projects</u>	
<u>LD 1597, An Act to Exempt from Sales Tax the Fee Associated with the Paint Stewardship Program</u>	
<u>Government Relations & Public Affairs</u>	Page 12
<u>LD 924, An Act Making Certain Supplemental Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government</u>	
<u>LD 925, An Act Making Certain Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government</u>	
<u>LD 1842, An Act to Require Education and Training Regarding Harassment for Legislators, Legislative Staff and Lobbyists</u>	
<u>LD 1894, An Act to Correct Errors and Inconsistencies in the Laws of Maine</u>	
<u>Health Care</u>	Page 14
<u>LD 401, An Act to Require Reimbursement to Hospitals for Patients Awaiting Placement in Nursing Facilities</u>	

[LD 687, Resolve, Regarding Reimbursement for Speech and Language Pathology Services](#)

[LD 1280, An Act to Require Drug Manufacturers to Comply with Federal Law](#)

[LD 1539, An Act to Amend Maine's Medical Marijuana Law](#)

[LD 1707, An Act to Reduce the Cost of Care Resulting from Blood-borne Infectious Diseases](#)

[LD 1714, An Act to Clarify Liability Pertaining to the Collection of Debts of MaineCare Providers by the Department of Health and Human Services](#)

[LD 1921, An Act to Grant the Department of Health and Human Services Access to Criminal History Information to Achieve the Purposes of the Child and Family Services and Child Protection Act](#)

[LD 1922, An Act to Amend the Child and Family Services and Child Protection Act](#)

[LD 1923, An Act to Improve the Child Welfare System](#)

Insurance

Page 17

[LD 320, An Act to Provide MaineCare Coverage for Chiropractic Treatment](#)

[LD 696, An Act to Require Notification of Adverse Changes to Prescription Drug Formularies in Health Plans](#)

Tax

Page 18

[LD 1655, An Act to Conform to the United States Internal Revenue Code of 1986 and Provide Tax Relief to Maine Families](#)

Bond Issues

If you have a question about any of the new laws summarized in the Bond Issues section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group.

Contact

[Andrea Cianchette Maker](#) – 207.791.1101

[Ann R. Robinson](#) – 207.791.1186

LD 836, *An Act to Authorize a General Fund Bond Issue to Build Maine’s Workforce Development Capacity by Modernizing and Improving the Facilities and Infrastructure of Maine’s Public Universities and Community Colleges* – Public Law 2017, [chapter 465](#).

This new law authorized a bond referendum that, when approved by the voters on November 6, authorized a \$64 million bond for Maine’s University and Community College System. Specifically, the bond authorizes \$49 million for spending on construction, remodeling, and infrastructure within the University of Maine System in order to expand workforce development capacity. The bond also authorizes another \$15 million for energy, information technology, and infrastructure improvements to the Community College System in order to improve access to technical and career education.

LD 1815, *An Act to Authorize a General Fund Bond Issue to Improve Multimodal Facilities, Highways and Bridges and Municipal Culverts* – Public Law 2017, [chapter 467](#).

This law authorized a bond referendum question for improvements to Maine highways, multimodal facilities, and bridges. It was enacted by the voters on November 6. It authorizes: an \$80 million bond for construction and improvement of highway corridors; a \$20 million bond for facilities and equipment related to ports, harbors, aviation, freight, and other pedestrian safety projects; a \$1 million bond to provide improvements to Maine Maritime Academy’s waterfront pier in Castine; and a \$5 million fund to provide for grants to municipalities to upgrade their culverts at stream crossings and to improve fish and wildlife habitats.

[Return to Table of Contents](#)

Business

If you have a question about any of the new laws summarized in the Business section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [Ann R. Robinson](#) – 207.791.1186; or [John D. Delahanty](#) – 207.791.1222.

Economic Development

Contacts

[Jon Block](#) – 207.791.1173 change to Jonathan A. Block.

[Kris J. Eimicke](#) – 207.791.1248

[Andrea Cianchette Maker](#) – 207.791.1101

LD 1584, *An Act to Expand the Local Foods Economy by Promoting Local Foods Procurement* – Public Law 2017, [chapter 437](#).

This law directs the commissioner of the Department of Agriculture, Conservation and Forestry to establish a local foods procurement program to promote and increase the procurement of local foods, with the goal that, by no later than 2025, twenty percent of all food and food products procured by state institutions will be locally procured.

In support of this goal, the law directs the commissioner to: (i) establish guidelines to assist state institutions in assessing their ability to procure local foods while minimizing such procurement costs; (ii) provide education and outreach to support farms, farmers' markets, community supported agriculture, and seafood providers; (iii) improve access to local foods for recipients of benefits of any food supplement program administered by the Department of Health and Human Services; and (iv) adopt major substantive rules to implement the local foods procurement program. The law also requires the commissioner to include a description of the program's progress toward reaching the stated goal in the Department's biennial report to the Legislature.

LD 1654, *An Act to Protect Economic Competitiveness in Maine by Extending the End Date for Pine Tree Development Zone Benefits and Making Other Changes to the Program* – Public Law 2017, [chapter 440](#).

On July 4, 2018, Maine passed a law to extend the Pine Tree Development Zone (PTDZ) program for three years. The PTDZ program is an incentive program designed to spur economic growth and job creation by making income and sales tax benefits (in addition to certain nontax benefits) available to new and expanding businesses for a ten-year period. The original program, which began in 2003, was set to cease accepting new applicants on December 31, 2018, with the benefits for participants sunseting on December 31, 2028.

The new law extends the date for new applicants by three years to December 31, 2021, with the benefits sunseting on December 31, 2031. It also makes certain changes to the program, particularly with respect to accountability and performance standards. For example, a new provision requires businesses that apply to the program after January 1, 2019, to supply a sworn statement that they have added at least one new qualified employee before becoming eligible for the program's sales tax exemption. Once a business has met that requirement, it may then obtain reimbursement of sales taxes paid for tangible personal property and the transmission and distribution of electricity purchased after it became a qualified PTDZ business but before it was eligible for the sales tax exemption (with the reimbursement period limited to two years).

PTDZ businesses are also now subject to additional annual reporting requirements. The annual reports, which are due each year by April 15, must now include information on the number of Maine employees and their wages for the report year, the number of PTDZ employees and their wages for the report year, the number of

[Return to Table of Contents](#)

PTDZ employees hired during the report year, investments made in the business during the report year, and the overall value of the PTDZ benefits claimed or received by the business in the report year.

The new law also gives certain oversight and review powers to the Legislature, requiring the Office of Program Evaluation and Government Accountability to review and provide an assessment of the program by January 15, 2021.

Food, Alcohol and Marijuana

Contact

[Andrea Cianchette Maker](#) – 207.791.1101

[Ann R. Robinson](#) – 207.791.1186

LD 238, *An Act to Amend the Maine Medical Use of Marijuana Act*, Public Law 2017, [chapter 447](#). **This emergency law became effective on July 9, 2018.**

This law amends the Maine Medical Use of Marijuana Act as it pertains to manufacturing and testing of medicinal marijuana. For qualifying patients, primary caregivers, and registered dispensaries, the law: (i) clarifies that marijuana products may be manufactured from harvested marijuana, including production of marijuana concentrate, by processes of marijuana extraction that do not involve certain inherently hazardous substances; and (ii) establishes a method to become authorized to produce marijuana concentrate by processes involving inherently hazardous substances if certain safety and compliance standards are met. For persons or entities that are not qualifying patients, primary caregivers, or registered dispensaries, the law establishes a process for such persons or entities to: (i) become registered to manufacture marijuana products; and (ii) produce marijuana concentrate by processes involving inherently hazardous substances.

The law also allows a facility that tests medical marijuana samples for the cannabinoid profile, potency, and contaminants to operate in the absence of rules adopted by the Department of Health and Human Services if the facility has obtained documentation of the facility's accreditation pursuant to standard ISO/IEC 17025 by a third-party accrediting body. Lastly, the law repeals specific provisions of law regarding municipal authority to establish a moratorium on registered primary caregivers near schools and municipal authority to regulate dispensaries. Instead, the law enacts a new provision allowing municipalities to regulate registered primary caregivers, registered dispensaries, marijuana testing facilities, and marijuana manufacturing facilities, except that municipalities are not allowed to prohibit or limit the number of registered primary caregivers.

Education & Workforce Development

If you have a question about any of the new laws summarized in the Education & Workforce Development section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101 or [Ann R. Robinson](#) – 207.791.1186.

Primary and Secondary Education

Contact

[Andrea Cianchette Maker](#) - 207.791.1101

[Margaret LePage](#) – 207.791.1382

LD 1666, *An Act to Ensure the Successful Implementation of Proficiency-based Diplomas* – Public Law 2017, [chapter 466](#).

This new law eliminates the requirement that Maine school districts implement a proficiency-based education curriculum and proficiency-based diploma. Previously, Maine law required all school districts to implement a proficiency-based diploma system. Under this new law, beginning January 2019, school districts can choose whether to continue under a proficiency-based system or move back to a classical, credit-based system and traditional diploma.

The law also authorizes the Department of Education to promulgate rules to allow schools flexibility to choose a proficiency-based system. Rules promulgated under the new law are major substantive rules and must be reviewed by the Legislature before they are enacted.

LD 1869, *An Act to Establish the Total Cost of Education and the State and Local Contributions to Education for Fiscal Year 2018-19* – Public Law 2017, [chapter 446](#). **This emergency law took effect on July 8, 2018.**

This new law set the total cost of education, and state allocations for K-12 education in Maine. The law set the 2018-2019 full-value educational mill rate at 8.48 percent, the number sufficient to result in a 50.50 percent statewide total local share.

LD 1924, *An Act to Improve Information Sharing Relating to Investigations of Educators* – Public Law 2017, [chapter 477](#).

This new law provides a method by which school entities and the Department of Education (the Department) can share information related to investigations of educators. The law covers a school entity's, or Department's investigation into a credentialed educator for conduct involving alcohol, illegal drugs, physical abuse, emotional abuse, violating boundaries, inappropriate contact between a credential holder and a student, stalking, or similar behavior that may endanger the health, safety, or welfare of a student.

Any school entity undertaking such an investigation must notify the Department of its intention within 15 business days of initiating the investigation. Additionally, if the credentialed educator is placed on leave, suspension, or terminated at the end of the investigation, the school entity must notify the Department, and the Department must notify any other school entity where the credentialed employer works. Additionally, the Department must notify any school entity employing a credentialed educator of the results of any Department investigation into the credentialed educator.

Additionally, this law allows the Department to share confidential information regarding a credentialed educator with any school entity through the course of an investigation. The Department is authorized to promulgate rules to effect this new law, and such rules are considered major substantive rules and must be reviewed by the Legislature.

[Return to Table of Contents](#)

Election Laws

If you have a question about any of the new laws summarized in the Election Laws section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](mailto:Andrea.Cianchette@legis.wa.gov) – 207.791.1101; [Ann R. Robinson](mailto:Ann.Robinson@legis.wa.gov) – 207.791.1186; or [John D. Delahanty](mailto:John.D.Delahanty@legis.wa.gov) – 207.791.1222.

Contact

[Ann R. Robinson](mailto:Ann.Robinson@legis.wa.gov) – 207.791.1186

[Joshua D. Dunlap](mailto:Joshua.Dunlap@legis.wa.gov) – 207.791.1103

[Andrea Cianchette Maker](mailto:Andrea.Cianchette@legis.wa.gov) – 207.791.1101

LD 1865, *An Act to Increase Transparency in the Direct Initiative Process* – Public Law 2017, [chapter 418](#).

This law makes it a conflict of interest for a notary to administer an oath or affirmation to the circulator of a petition for a referendum or initiative if the notary also provides other services to initiate or promote that initiative or referendum. Further, a notary or other person authorized by law to administer oaths or affirmations is not authorized to administer an oath or affirmation to the circulator of a petition if that person is providing any other services, regardless of compensation, to initiate or promote the initiative or referendum. This law also defines a “major contributor” as one who contributes more than \$100,000 to a ballot question committee or political action committee in order to influence a referendum or initiative, and governs the reporting requirements of major contributors. A major contributor must submit a report to the commission that contains information including the name and contact information of the major contributor, the form of organization and purpose of the major contributor, the amount and date of each contribution, and the names of the five largest sources of funds received by the major contributor during the six months prior to the contribution being made. The report must be filed on or before the next regularly scheduled filing deadline, or within two business days if the contribution was made during the last 13 days before an election. The law gives the commission the ability to assess a civil penalty to a major contributor who does not file a timely report.

Energy

If you have a question about any of the new laws summarized in the Energy section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [Ann R. Robinson](#) – 207.791.1186; or [John D. Delahanty](#) – 207.791.1222.

Electricity

Contact

[Jared S. des Rosiers](#) – 207.791.1390

[John W. Gulliver](#) – 207.791.1296

[Andrea Cianchette Maker](#) – 207.791.1101

LD 1729, *An Act to Restore Confidence in Utility Billing Systems* – Public Law 2017, [chapter 448](#). **This emergency law became effective on July 9, 2018.**

This law allows the Public Utilities Commission (PUC) to fairly allocate the costs between ratepayers or shareholders of an investor-owned public utility when an audit of the utility finds imprudence that results in a cost disallowance. The law directs the PUC to adopt rules governing the testing of a transmission and distribution utility's metering and billing systems to ensure accuracy regarding the measurement of the usage of electricity and the determination of customer bills. The law also allows the PUC to consider whether to adopt periodic, independent audits of the metering and billing systems. The law requires the PUC to submit a report to the Legislature by January 15, 2019 that addresses whether the PUC has exercised the authority granted to it, and another report to the Legislature by February 1, 2019 that addresses whether enough is being done by investor-owned transmission and distribution utilities to strengthen and protect their systems; whether it is in the interest of the ratepayer to require the utilities to do more to strengthen and protect their systems; and what can be done to improve public safety in storm events.

Environmental & Renewables

If you have a question about any of the new laws summarized in the Environmental & Renewables section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [Ann R. Robinson](#) – 207.791.1186; or [John D. Delahanty](#) – 207.791.1222.

Environmental Enforcement and Liability

Contact

[Matthew D. Manahan](#) – 207.791.1189

[Andrea Cianchette Maker](#) – 207.791.1101

LD 1597, *An Act to Exempt from Sales Tax the Fee Associated with the Paint Stewardship Program* – Public Law 2017, [chapter 438](#).

This new law exempts from the Maine sales tax the assessment imposed on paint products under the Maine paint stewardship program.

Water

Contact

[William E. Taylor](#) – 207.791.1213

[Andrea Cianchette Maker](#) – 207.791.1101

LD 1510, *An Act to Authorize a General Fund Bond Issue to Fund Wastewater Infrastructure Projects* – Public Law 2017, [chapter 425](#).

This new law authorizes a bond referendum question on wastewater infrastructure projects. Specifically, if ratified, the bond would provide: \$2 million for grants to towns to help replace malfunctioning septic systems affecting coastal watersheds or causing a public nuisance; \$27,650,000 for wastewater treatment facility planning and construction, with a priority for high-value shellfish resources; and \$350,000 to assist homeowners in repairing or replacing substandard overboard discharge systems in coastal watersheds.

Government Relations & Public Affairs

If you have a question about any of the new laws summarized in the Appropriations section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](mailto:Andrea.Cianchette.Maker@maine.gov) – 207.791.1101; [Ann R. Robinson](mailto:Ann.R.Robinson@maine.gov) – 207.791.1186; or [John D. Delahanty](mailto:John.D.Delahanty@maine.gov) – 207.791.1222.

Appropriations

Contact

[Andrea Cianchette Maker](mailto:Andrea.Cianchette.Maker@maine.gov) – 207.791.1101

[Ann R. Robinson](mailto:Ann.R.Robinson@maine.gov) – 207.791.1186

[John D. Delahanty](mailto:John.D.Delahanty@maine.gov) – 207.791.1222

LD 924, *An Act Making Certain Supplemental Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government* – Public Law 2017, [chapter 459](#). **This emergency law became effective on July 9, 2018.**

This new law provides additional funding to the Department of Health and Human Services (DHHS) for the purposes of increasing the reimbursement rates for services provided for home-based and community-based care for individuals with intellectual disabilities or autism. The law also authorizes DHHS to undertake rulemaking to provide new reimbursement rates, taking into account the costs of care and services.

LD 925, *An Act Making Certain Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government* – Public Law 2017, [chapter 460](#). **This emergency law became effective on July 9, 2018.**

This new law makes changes to the Department of Health and Human Services' reimbursement rates for direct care workers, nursing facilities, and residential care facilities. The new law also establishes a "hub and spoke" model for opioid addiction treatment. The law also establishes a task force to explore providing early childhood education programs, and sets up a fund for lead abatement.

The law also establishes a Commission to Study Long-term Care Workforce Issues. The Commission, which is comprised of 18 members, is tasked with evaluating, among other things, the current demand for direct care workers and the likely future need, ways to eliminate barriers to education and hiring of direct care workers, and ways to improve the quality of long-term care jobs. The Commission must report back to the Committee on Health and Human Services, by November 7, 2018, regarding its recommendations.

With regard to opioid addiction treatment, the new law amends the Maine criminal procedure statutes to authorize the state, upon request of the investigating agency or prosecuting agency, to turn over forfeited property to a law enforcement agency that provides case management to individuals with substance use disorders.

The law also amends the Maine criminal statutes. It clarifies that an individual is guilty of aggravated drug or counterfeit drug trafficking if the trafficked drug or counterfeit drug contributes to the serious bodily injury or death of another individual, if the individual traffics in fentanyl powder in a quantity of 6 grams or more, or 270 or more individual bags or containers.

The new law also requires DHHS to provide the Committee on Health and Human Services with an annual report regarding the Controlled Substances Prescription Monitoring Program. The law also makes changes to the computation of benefits for correctional facility employees who have served for more than 25 years.

[Return to Table of Contents](#)

The law establishes a task force to study implementing early childhood special education programs and services for children aged 3 to 5 years.

The law establishes a fund for lead abatement for homeowners who meet certain income qualifications, and who have lead present in their home. The fund is established with money from the Fund for a Healthy Maine, and is administered by the Maine Housing Authority.

Finally, the law provides appropriations and allocations pursuant to the above initiatives.

Legislative/Executive Process

Contact

[Andrea Cianchette Maker](#) – 207.791.1101

[Ann R. Robinson](#) – 207.791.1186

[John D. Delahanty](#) – 207.791.1222

LD 1842, *An Act to Require Education and Training Regarding Harassment for Legislators, Legislative Staff and Lobbyists* – Public Law 2017, [chapter 443](#).

This law requires all legislators, legislative staff, and lobbyists to complete a course of in-person training regarding harassment, including sexual harassment, at the beginning of each regular session of the Legislature. The law requires lobbyists to complete the training, which is valid for two years, prior to registering with the Maine Ethics Commission (the Commission) as a lobbyist. The lobbyist must include certification of completion of training with his or her registration. Registrations that do not contain certification of completion will be rejected by the Commission. If the lobbyist is unable to complete the training prior to registering, for reasons outside the lobbyist's control, the Commission may grant a limited extension to allow the lobbyist to complete the training. Lobbyists with minimal presence in the State House may seek an exemption from the training requirement.

LD 1894, *An Act to Correct Errors and Inconsistencies in the Laws of Maine* – Public Law 2017, [chapter 475](#). **This emergency law became effective on September 12, 2018.**

This law contains changes and consolidations to statutory errors and inconsistencies.

Health Care

If you have a question about any of the new laws summarized in the Health Care section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; or [Ann R. Robinson](#) – 207.791.1186.

Health Care Delivery

Contact

[Emily L. Cooke](#) – 207.791.1396

[Ann R. Robinson](#) – 207.791.1186

[Andrea Cianchette Maker](#) – 207.791.1101

LD 401, *An Act to Require Reimbursement to Hospitals for Patients Awaiting Placement in Nursing Facilities* – Public Law 2017, [chapter 454](#).

This law requires the Department of Health and Human Services to reimburse hospitals for each day after the tenth day a MaineCare-eligible individual is in the care of a hospital while awaiting placement in a nursing facility. However, this requirement does not extend to critical access hospitals. The Department will reimburse hospitals prospectively at the statewide average rate per MaineCare member day for nursing facility services. The law takes effect on January 1, 2019 and will be repealed on December 31, 2023.

LD 687, *Resolve, Regarding Reimbursement for Speech and Language Pathology Services* – Resolve 2017, [chapter 60](#).

This resolve directs the Department of Health and Human Services to amend certain rules regarding speech-language pathology services as contained in Chapter 101: MaineCare Benefits Manual, Chapter III, Section 109. The Department shall increase reimbursement rates to no less than 69 percent of the federal Medicare reimbursement rate for speech-language pathology services provided by an agency, and to no less than 69 percent of the federal Medicare reimbursement rate for services provided by an agency speech-language pathology assistant for treatment within a group of two or more individuals. Further, the Department shall increase reimbursement rates to no less than 90 percent of the agency rate for speech-language pathology services provided by an independent speech-language pathologist, and to no less than 90 percent of the agency rate for services provided by an independent speech-language pathology assistant for treatment within a group of two or more individuals. Finally, services provided by independent speech-language pathology assistants for individual treatment must also be reimbursed at 90 percent of the agency rate.

LD 1539, *An Act to Amend Maine’s Medical Marijuana Law* – Public Law 2017, [chapter 452](#).

This law updates nearly every aspect of the medical marijuana laws. For example, it removes the “qualifying conditions list” that stipulated certain conditions that an individual must have in order to qualify as a qualified patient. Now, a qualified patient is any patient with a written certification regarding medical use of marijuana. This law also changed the number of plants a qualifying caregiver may cultivate from 6 to 30, changed the amount of harvested marijuana a qualifying patient may possess from 2 ½ ounces to 8 pounds, and allows a qualifying patient to cultivate or designate to a caregiver or dispensary 12 immature marijuana plants and unlimited seedlings. Further, the law implements new packaging and labeling requirements, authorizes DHHS to enact routine technical rules with regard to manufacturing facilities, and removes the requirement that a patient must designate a dispensary or caregiver.

LD 1707, *An Act to Reduce the Cost of Care Resulting from Blood-borne Infectious Diseases* – Public Law 2017, [chapter 464](#).

This law provides appropriations and allocations, beginning in fiscal year 2018-19, to support hypodermic apparatus, or syringe, exchange programs.

[Return to Table of Contents](#)

LD 1714, *An Act to Clarify Liability Pertaining to the Collection of Debts of MaineCare Providers by the Department of Health and Human Services* – Public Law 2017, [chapter 442](#). This emergency law became effective on July 4, 2018.

This law clarifies that, while the Department of Health and Human Services may offset against current reimbursement owed to a provider or any entity related by ownership or control to that provider any debt it is owed by that provider after the debt becomes collectible, the Department may not define ownership or control as subject to an offset unless the person who is subject to the offset has the voting power to govern the operations of the provider owing the debt. Further, the Department may not impose liability for a debt on any person other than the provider notified of the debt or a person subject to collection by offset. However, the Department is still able to seek civil penalties from any person as provided in current law.

LD 1921, *An Act to Grant the Department of Health and Human Services Access to Criminal History Information to Achieve the Purposes of the Child and Family Services and Child Protection Act* – Public Law 2017, [chapter 473](#).

This law authorizes the Department of Health and Human Services to request and receive public and confidential criminal history record information from the Department of Public Safety to assist in preventing child abuse and neglect.

LD 1922, *An Act to Amend the Child and Family Services and Child Protection Act* – Public Law 2017, [chapter 470](#).

This law changes the requirement that caseworkers must prioritize family rehabilitation and reunification as a means for protecting the welfare of children to requiring that caseworkers make reasonable efforts to rehabilitate and reunify families.

LD 1923, *An Act to Improve the Child Welfare System* – Public Law 2017, [chapter 471](#). This emergency law became effective on September 7, 2018.

This law provides additional funding to enhance the child welfare system and services available to children in the care of the state. The law provides funding for increased foster home reimbursement rates to increase recruitment and retention of foster families, and provides funding for the creation of 16 Human Services Casework positions. The law also directs the Department of Health and Human Services to either purchase or develop a new comprehensive child welfare information system. Finally, the law directs DHHS to contract for a third-party independent rate study to develop a separate reimbursement rate for trauma-focused cognitive behavioral therapy to be available to be billed under rule Chapter 101: MaineCare Benefits Manual, Section 65.

Pharmacy

Contact

[Ann R. Robinson](#) – 207.791.1186

LD 1280, *An Act to Require Drug Manufacturers to Comply with Federal Law* – Public Law 2017, [chapter 434](#). This new law authorizes an eligible product developer of drugs or biological products, to engage in testing and research for further development of generic or biologically similar versions of drugs currently produced by licensed manufacturer or wholesaler licensed under the Maine Pharmacy Act.

Specifically, the law requires a licensed manufacturer or wholesaler to make drugs available to eligible product developers. Eligible product developers are those seeking an application of approval for a drug under a federal licensing authority. The law requires the drug be made available at a price no greater than the wholesale acquisition cost, and without any restriction that would delay the eligible product developer's application for approval of the drug under federal agencies. The law considers wholesale acquisition cost to include the list price for a brand-name or generic drug per person per year or course of treatment when sold to wholesalers or direct purchasers, not including discounts or rebates.

The law also establishes a liability shield for the manufacturer or wholesaler for injuries alleged to be caused by a failure to include adequate safety warnings or by a defect in the product's design, so long as the manufacturer or wholesaler has made the product available to an eligible product developer and the product was not manufactured or sold by the manufacturer or wholesaler.

Finally, the new law authorizes the Attorney General to seek injunctive relief against any manufacturer or wholesaler that fails to make a drug distributed in the state available to an eligible product developer.

Insurance

If you have a question about any of the new laws summarized in the Insurance section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [Ann R. Robinson](#) – 207.791.1186; or [John D. Delahanty](#) – 207.791.1222.

Health Care Insurance

Contact

[Ann R. Robinson](#) – 207.791.1186

[Christopher E. Howard](#) – 207.791.1335

LD 320, *An Act to Provide MaineCare Coverage for Chiropractic Treatment* – Public Law 2017, [chapter 421](#).

This law requires chiropractic evaluation and management examinations performed by a licensed chiropractic doctor to be reimbursed under the MaineCare program, and gives the Department of Health and Human Services the ability to adopt rules to implement this requirement.

LD 696, *An Act to Require Notification of Adverse Changes to Prescription Drug Formularies in Health Plans* – Public Law 2017, [chapter 429](#).

This law requires a carrier to provide an enrollee with at least 60 days' written notice of an adverse change to an enrollee's prescription drug formulary, meaning the drug has either been removed from the enrollee's formulary or the drug has been moved to a tier with a higher cost-sharing requirement. The carrier may provide less than 60 days' notice if the drug is being removed from the formulary because of safety concerns. The carrier must notify the enrollee of his or her right to request an exception, and provide the enrollee a form to request that exception, when a prescription drug is removed from the formulary, and must honor any prior authorization for a drug that has been removed from a formulary until the approval expires, as long as the enrollee retains coverage under the same plan. Further, if the enrollee has requested an exception prior to the effective date of the proposed change, the carrier must provide coverage for that drug until a decision has been rendered on the request for an exception. The law also requires carriers to submit a report to the Bureau of Insurance on any prescription drug formulary changes no later than 30 days following the end of each quarter. The Bureau must then submit a report to the Legislature no later than 60 days following the end of each quarter. Finally, the state employee health insurance program is required to report the same information within 30 days following the end of each quarter to the Director of Employee Health and Benefits within the Department of Administrative and Financial Services, who must then submit a report to the Legislature no later than 60 days following the end of each quarter.

Tax

If you have a question about any of the new laws summarized in the Tax section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [Andrea Cianchette Maker](#) – 207.791.1101; [Ann R. Robinson](#) – 207.791.1186; or [John D. Delahanty](#) – 207.791.1222.

Income Tax

Contact

[Jonathan A. Block](#) – 207.791.1173

[Kris J. Eimicke](#) – 207.791.1248

[Andrea Cianchette Maker](#) – 207.791.1101

LD 1655, *An Act to Conform to the United States Internal Revenue Code of 1986 and Provide Tax Relief to Maine Families* – Public Law 2017, [chapter 474](#). This emergency law became effective on September 12, 2018.

The Maine Legislature passed tax conformity legislation on August 30, 2018. The legislation took effect on September 12 without the Governor’s signature. The legislation makes the following changes:

General Changes

- Updates references to the federal code to refer to the federal code as amended through March 23, 2018 for tax years beginning on or after January 1, 2017, thereby conforming to the Tax Cuts and Jobs Act (TCJA).

Impact on Individual Taxpayers¹

- Changes the Maine standard deduction to conform to the federal standard deduction, and increases the amount at which the standard deduction begins to phase out.
- Increases Maine’s itemized deductions by the amount of real and personal property taxes not claimed for federal income tax purposes as a result of the \$10,000 federal limitation on deduction of state and local taxes.
- Increases the amount at which the Maine itemized deduction begins to phase out.
- Establishes a Maine personal exemption deduction of \$4,150 (with an additional \$4,150 deduction for the taxpayer’s spouse if the taxpayer is married filing a joint return). The personal exemption deduction amount is subject to phase-out for higher-income taxpayers, and is subject to an annual inflation adjustment. The personal exemption deduction may not be claimed for a taxpayer or a taxpayer’s spouse who is claimed as a dependent on another taxpayer’s return.
- Amends the sales tax fairness credit and the property tax fairness credit by replacing references to the number of exemptions claimed on the taxpayer’s return with references to dependents claimed under the federal child tax credit, and by removing the requirement to add the federal domestic production activities deduction to income for purposes of the programs. It also provides for the adjustment for inflation of the sales tax fairness credit and the property tax fairness credit beginning in 2019. Finally, it increases the property tax fairness credit to 100% of the benefit base above 6% of the resident individual’s income, and increases the credit cap to \$750 for individuals and \$1,200 for individuals over 65 years of age.
- Establishes a new tax credit equal to \$300 for each qualifying child and dependent of the taxpayer for whom the federal child tax credit is claimed for the same taxable year. This credit is subject to phase-outs above certain income levels.

¹ Each of these changes applies to tax years beginning on or after January 1, 2018.

[Return to Table of Contents](#)

- Amends the Maine College Savings Program to change the name to the Maine Education Savings Program and, as a result of recent federal changes to Section 529, extends the ability to use the program for enrollment or attendance expenses at an elementary or secondary public, private or religious school, and to receive favorable federal tax treatment on the earnings portions of such disbursements.

Trusts and Estates

- Requires that any amount claimed as a special deduction provided by Section 199A of the federal code be added back to federal taxable income for purposes of calculating income tax liability of estates and trusts under 36 M.R.S. ch. 809, 811. Individual taxpayers are not allowed the special deduction provided by Section 199A of the federal code in calculating Maine taxable income; this section provides similar treatment to estates and trusts.
- Retains the Maine exclusion amount under the estate tax at the amount in effect for deaths prior to January 1, 2018, subject to an annual inflation adjustment, and does not conform to the increases in the federal basic exclusion amount.

Impact on Corporate Taxpayers²

- The TCJA limits net operating loss (NOL) deductions to 80% of taxable income, eliminates the ability to carry back NOLs, and permits an unlimited carryforward of NOLs. Maine has not conformed to the 80% limitation and, consistent with current practice, only permits the carryforward of NOLs.
- Does not conform to federal bonus depreciation, but Maine taxpayers can still take the Maine Capital Investment Credit for assets placed in service in Maine.
- Eliminates the application of the alternative minimum tax to corporate income.
- With respect to the federal mandatory repatriation of deferred foreign income under the TCJA, the taxation of dividends, subpart F income, and global intangible low-taxed income (GILTI):
 - For tax years beginning on or after January 1, 2017, creates an addition modification in the amount of the participation exemption claimed in accordance with Section 965(c) of the federal code.
 - Creates an addition modification in the amount of the GILTI deduction claimed in accordance with Section 250(a)(1)(B) of the federal code.
 - For tax years beginning on or after January 1, 2017, excludes from dividend income subpart F income, GILTI included in federal taxable income, and deferred foreign income included in federal taxable income.
 - For tax years beginning on or after January 1, 2017, creates a subtraction modification for an amount equal to 50% of the apportionable subpart F income included in federal gross income. This section codifies longstanding administrative practice.
 - For tax years beginning on or after January 1, 2017, creates a subtraction modification for an amount equal to 80% of the apportionable deferred foreign income included in federal gross income, pursuant to Sections 965(a), (b) of the federal code.
 - Creates a subtraction modification for an amount equal to 50% of the apportionable GILTI included in federal gross income.
- Expands the corporate income tax brackets beginning in 2018:
 - The current rate structure for taxable corporations consists of 3.5% on income not over \$25,000, 7.93% on income of \$25,000 but not over \$75,000, 8.33% on income of \$75,000 but not over \$250,000 and 8.93% on income of \$250,000 or more.

² Each of these changes applies to tax years beginning on or after January 1, 2018, unless otherwise stated.

- The rate structure for tax years beginning after December 31, 2017 consists of 3.5% on income not over \$350,000, 7.93% on income of \$350,000 but not over \$1,050,000, 8.33% on income of \$1,050,000 but not over \$3,500,000 and 8.93% on income of \$3,500,000 or more.
- Provides a state credit under the income tax and the insurance premium tax equal to the federal credit for employer-paid family and medical leave. Consistent with the federal credit, the Maine credit expires on December 31, 2019.

FIRM OVERVIEW

Pierce Atwood. There's a Reason...

There's a reason why informed decision makers nationwide turn to Pierce Atwood LLP. The reason is not just that we deliver exceptional service and value to our clients. It's "how" we do it. We start by attracting and retaining superb legal talent. We add to that a cost structure and a partnership system that allows us to put our clients first in all instances and to offer a reasonable rate structure including options for alternative fee arrangements, in addition to the billable hour. By rewarding our attorneys for teamwork and collaboration, our clients get the right lawyer for the right job.

Pierce Atwood is a member of The Bridge Group, a network of law firms in the U.S., England, France, Belgium and Germany that call upon each other to cover far reaching geographic areas and to address different areas of expertise in order to provide the highest level of quality and service to our clients.

PRACTICE AREAS

Admiralty & Maritime
 Antitrust & Competition
 Banking & Financial Services
 Bankruptcy & Creditors' Rights
 Business
 Construction
 Employee Benefits
 Employment
 Energy
 Environmental & Land Use
 Federal Tax
 Government Relations
 Immigration
 Intellectual Property & Technology
 Litigation
 Patent
 Privacy & Data Security
 Real Estate
 State & Local Tax
 Trademark
 Trusts & Estates

Honors & Distinctions

We are a team of 160 responsive, creative, collaborative, and hard-working professionals who serve our clients from offices located in four New England states, the District of Columbia, and Stockholm, Sweden. Of our attorneys, past and present:

73 are listed in *The Best Lawyers in America*® 2019, covering 60 areas of law

37 are recognized in the 2018 edition of *Chambers USA*

4 have been elected members of the American College of Trial Lawyers

3 have been elected Fellows of the American College of Construction Lawyers

3 have served as Special Master to the United States Supreme Court

2 have served as Chief Justice of the Maine Supreme Judicial Court

2 have been elected Fellows of American College of Trust & Estate Counsel

1 is serving as U.S. Senator from New Hampshire

1 is serving as a judge on the U.S. Court of Appeals for the First Circuit

1 is serving as a judge on the New Hampshire Superior Court

1 is serving as U.S. Magistrate Judge for the District of Maine

Our attorneys also serve in prominent roles within the legal community. For example, attorneys past and present have served as president of the Maine Trial Lawyers Association, president of the Boston Bar Association, president of the Maine State Bar Association, and head of the American College of Trial Lawyers.

BTI Consulting Group, the leading provider of strategic research to the legal industry, has consistently recognized Pierce Atwood. The 2018 *Brand Elite* research study ranked us in the top 20% of all law firms providing premium-worthy value. We made the *Client Service A-Team 2018*, "firms considered by clients to deliver the absolute best levels of client service." *BTI Legal Innovation and Technology Outlook 2019* recognized Pierce Atwood as a Client Experience Innovator, "making strategic changes in client service to deliver a world-class client experience."

OFFICE LOCATIONS

PORTLAND, ME BOSTON, MA PORTSMOUTH, NH PROVIDENCE, RI AUGUSTA, ME STOCKHOLM, SE WASHINGTON, DC