

2013 Summary of New Maine Laws & Carried Over Legislation

State of Maine 126th Legislature, 1st Regular Session
December 5, 2012 – July 10, 2013

Pierce Atwood. There's a reason...

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Introduction

Pierce Atwood LLP is pleased to provide a summary of selected new Maine laws enacted during the 126th Maine Legislature's 1st Regular Session, as well as legislation carried over to next year's 2nd Regular Session. Laws and bills summarized are those most relevant to our clients. This Summary includes legislation that was either:

- Enacted as emergency legislation
- Enacted as regular legislation
- Defeated but noteworthy
- Carried over to 2nd Regular Session that will commence on January 8, 2014

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 signed into law by the Governor, the legislation is assigned a Public Laws 2013 chapter number for reference. Ultimately, the language is incorporated into the Maine Statutes. In the electronic version of the Summary, the chapter number links you to the new law.
- Unless specific effective dates are provided in the legislation, the effective date of non-emergency legislation enacted during the 1st Regular Session is October 9, 2013. Emergency bills became effective as law on the date signed by the Governor, which we note in red following the chapter number.
- You may link to the original text and amendments of summarized carried over legislation through the words "carried over".

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 an attorney in the relevant practice group (contact information is provided throughout the report) or a member of our [Government Relations Group](#): [John D. Delahanty](#) - 207.791.1222; [Andrea C. Maker](#) - 207.629.5928; [Avery T. Day](#) - 207.791.1157.

You may access the 2013 Summary of New Maine Laws & Carried Over Legislation under Publications on the Pierce Atwood website at www.pierceatwood.com/governmentrelations.

Disclaimer

The *2013 Summary of New Maine Laws & Carried Over Legislation* is not intended to provide a detailed legal analysis of all aspects of the new laws summarized. For legal advice and counsel, please contact an attorney at Pierce Atwood.

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Overview of the Legislative Session

Overview

The 2012 elections provided a significant change in the composition of the Maine Legislature. Democrats recaptured a majority in both the House and the Senate, sweeping Republicans out of power after two years of that Party's control of the Legislature. Along with this change in the composition of both the House and Senate came changes in legislative leadership, including Senator Justin Alford being elected as President of the Senate and Representative Mark Eves being elected as the Speaker of the House. Of the ten members of leadership, only two had previously held a leadership office. Additionally, new legislative committees were appointed, including new House and Senate Chairs. Coupled with these changes in leadership and direction of the Legislature was the fact that there was a sizable number of first time legislators in both chambers. All of these elements worked together to produce a Legislature quite unlike the 125th Legislature, when Republicans controlled both bodies.

The most apparent change this legislative session was Maine's divided government, with the Legislature coming under Democratic control and Republican Governor LePage entering the second half of his first term. This year certainly provided plenty of political theater, which sometimes became personal as the session unfolded. There were, of course, some lighthearted moments during the session, such when LD 216, legislation to allow bars to open early on a Sunday when St. Patrick's Day falls on a Sunday, was signed into law just before this year's St. Patrick's Day holiday. While the back and forth between the Governor and members of the Legislature captured the media's attention, work largely proceeded under its normal course, except for a handful of high-profile issues. In fact, most of the just over 500 bills and resolves that were enacted into law this session were done without fanfare.

Key Issues Addressed

Biennial Budget

The biennial budget, LD 1509, was one of the most significant pieces of legislation to become law during this session. At its most basic, this is a \$6.3 billion spending plan for the State over the next two fiscal years. The budget, however, is more than simply an exercise in accounting as many policy decisions are embedded in the budget. Among other things, the budget restructures the "Circuit Breaker" Program, authorizes the Executive Branch to identify and eliminate 100 state positions, authorizes the creation of a process to review tax expenditures, creates a task force to examine taxing nonprofits, and places \$4 million in the State's "rainy day fund." The biggest points of contention in the budget deliberations centered on the Governor's proposal to eliminate municipal revenue sharing, a proposal that was largely rejected in the final budget bill. Tax policy was also hotly contested. Some Democrats wanted to repeal income tax cuts enacted by the previous Legislature. Some Republicans opposed increases to the State's sale tax and meals and lodging tax that were both included in the final budget bill.

Timing of the biennial budget adoption was also of interest, as speculation abounded during almost the entire legislative session about whether a budget agreement would be reached in time for the new state fiscal year, or whether we would suffer a government shutdown. The Governor did veto the budget with only about a week remaining before the start of the new fiscal year, putting the shutdown issue into play. A shutdown was averted when a sufficient number of Republicans in the House and Senate voted with the Democrats to override the Governor's veto, allowing the budget to become law before July 1. This was just one of a few vetoes that were overridden this session.

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Gubernatorial Vetoes

Feeding into the narrative regarding the tenor of the debate at the State House was the Governor's use of the veto pen this legislative session. Governor LePage vetoed over 80 bills this session, establishing a new record for Maine Governors. The Governor's actions included vetoes of relatively small proposals that were not controversial when they initially proceeded through the Legislature and vetoes of major pieces of legislation such as the biennial budget (LD 1509), Medicaid expansion (LD 1066), and an omnibus energy bill (LD 1559). Some themes emerged from these vetoes, as the Governor objected to bills increasing taxes and fees, as well as mandates that Executive Branch resources be devoted to various studies and work groups. Ultimately, only five of the Governor's vetoes were overridden by the Legislature by the necessary 2/3rds vote, with the most notable being the override of the Governor's veto of the biennial budget.

Medicaid Expansion

Throughout the session, Democrats in the Legislature tried to expand Maine's Medicaid program, known as MaineCare. This proposal would have taken advantage of federal funding to expand Medicaid to more individuals in Maine, a proposal that Governor LePage and Republicans in the Legislature opposed. Democrats first worked to attach Medicaid expansion language to an unrelated bill to pay the State's hospital debt, LD 1546. Though the Governor was particularly interested in paying the State's hospital debt, he vetoed this bill and his veto was sustained. From there, Medicaid expansion advanced in the form of a standalone bill, LD 1066. This standalone proposal was also vetoed by the Governor. This veto was also sustained by a slim margin in the House, killing this proposal.

Hospital Debt/Wholesale Liquor Business

A major initiative of the Governor this session was a complex proposal to borrow against anticipated revenues from rebidding the State's wholesale liquor contract in order to pay the State's debt to Maine hospitals. Two competing proposals to repay the hospitals and setting forth the framework for bidding out the state's wholesale liquor business were introduced to address this matter. The Veteran's and Legal Affairs Committee ultimately rejected both measures and created a committee bill extracting concepts from each of the original bills. The Committee proposal was slowly and collaboratively developed by the Veterans and Legal Affairs Committee and the Appropriations and Financial Affairs Committee. A near-final proposal became further complicated when language was added to the bill to expand Medicaid eligibility. The Governor's opposition to Medicaid expansion resulted in a veto of this bill, LD 1546. A subsequent bill that did not include the Medicaid expansion language, LD 1555, was introduced and enacted by the Legislature, resolving the issue of the State's hospital debt.

Omnibus Energy Bill

The omnibus energy bill, LD 1559 was another major bill enacted this session. This wide-ranging proposal combined elements of about a dozen bills presented to the Energy, Utilities and Technology Committee throughout this session. This omnibus measure was the product of roughly two weeks of committee deliberations and includes, among its provisions, reforms of the Efficiency Maine Trust and a proposal to reduce energy cost by contracting for natural gas pipeline capacity. This bill was enacted in the Legislature by large majorities in both the House and the Senate. The Governor, however, decided to veto this bill because it did not address language he sought regarding offshore wind energy. The Governor's concerns regarding offshore wind energy, however, were addressed in a separate bill, LD 1472, paving the way for the Legislature to override the Governor's veto on the omnibus bill.

Workforce Development Select Committee

Workforce development was a high priority issue that enjoyed bipartisan support this session. This issue was of particular interest to Maine's business leaders. In response to this concern, a 15-member joint select committee was established, and held field hearings around the state. This committee formulated a proposal, LD 90, based on issues that had been presented to it. Ultimately, due to fiscal issues associated with funding this bill, much of the committee's proposal was wrapped into the biennial budget, LD 1509, and funded through that bill. Among the provisions enacted is language that:

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- requires the University of Maine System and the Maine Community College System to establish a process for the smooth transfer of credits between systems;
- establishes a task force to address issues related to the 200,000 plus adults in Maine with some postsecondary education that have not obtained a degree;
- and expands upon the Maine State Chamber of Commerce's internship-matching program.

Privacy Issues

This session saw a surprising number of bills that relate to privacy, particularly privacy in the digital age. Interestingly, these proposals were submitted well before national media outlets began releasing stories concerning electronic surveillance programs run by the federal government. Among the privacy proposals that will become law this session are LD 1040, which relates to surveillance cameras being placed on private property; LD 1377, which relates to warrant requirements for text message and cell phone record information; and LD 415, which relates to warrant requirements to obtain cell phone location information. This last bill was vetoed by the Governor but was one of five vetoes this session to be overridden. Some privacy measures did not make it through the legislative process, such as LD 313, which proposed to create the Maine Online Privacy Protection Act; LD 158, which proposed to stiffen Maine's data breach requirements; and LD 236, which relates to limitations on the use of drones by law enforcement. This last bill was enacted by the Legislature but died when the Governor vetoed it. Privacy issues are very likely to remain a hot topic, as this issue is a matter of national debate and some privacy bills were carried over to the next legislative session, including LD 1194, which proposes to protect social media password information from employers and educational institutions.

Gun Control

Given the spotlight on gun control issues nationally, the Legislature saw a large number of gun control proposals this year. In fact, the Criminal Justice and Public Safety Committee held hearings on over twenty separate proposals to either regulate guns or modify Maine's concealed weapons permit program. Early in the session, the Legislature enacted an emergency bill shielding concealed weapons permit holder data from Maine's Freedom of Access Act in response to a mass request for this data from the Bangor Daily News. A bill that would have required firearm dealers to conduct background checks, LD 1240, was significantly watered down in committee, passed by the legislature but ultimately killed by the Governor's veto. Another gun related bill that did not advance was LD 265, which would have repealed the recently enacted law stripping employers of the right to prohibit certain employees from bringing firearms to the workplace. Given the continued national dialogue on gun control issues, this issue will likely remain a topic of debate at the Maine Legislature.

Food Labeling/Food Issues

Food labeling and other food-related issues received substantial attention this legislative session. Food labeling proposals included a bill to require labeling of genetically engineered foods, LD 718, which is now pending action by the Governor. Additionally, various bills, LD 844, LD 1050 and LD 1181, addressing the use and labeling of Bisphenol A in food packaging were introduced but did not survive the legislative process. Of particular interest this session were bills dealing with "food sovereignty," which proposes shifting food safety enforcement and licensing to the local level and away from the State for certain locally raised food products. Bills touching upon the issue of "food sovereignty" included LD 475, LD 745, LD 1282 and LD 1287. None of these bills will become law, though LD 1287 will be carried over to the next legislative session.

Environmental Reforms

While a number of reforms to environmental laws were proposed this session, relatively few reforms were enacted. Legislation originally designed to place a moratorium on the transportation of tar sands, which was subsequently amended and turned into a study, LD 1362, was defeated when the Governor vetoed this bill. A number of bills, LD 901, LD 1059, LD 1302 and LD 1324, proposed regulating metallic mineral mining in various ways but none of these bills were enacted. Legislation to extend the Maine Uniform Building and Energy Code to more towns, LD 977, was also defeated. A resolve to implement a Department of Environmental Protection study regarding climate change, LD 825, also failed to survive the process when it

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was vetoed by the Governor. Various proposals to further regulate chemicals in consumer products, LD 735, LD 844, LD 1050 and LD 1181, also did not become law this session. The most significant movement in environmental reforms came in the area of product stewardship, also known as extended producer responsibility. Both LD 1308, which establishes a product stewardship program for architectural paint, and LD 1335, which reworks Maine's existing product stewardship law, were enacted this session.

Tax Reform

A proposal to implement wholesale reform of Maine's tax code, LD 1496, made substantial progress this session, though it was ultimately killed in committee. This proposal was developed by a bipartisan group of eleven legislators and touched on, among other things, sales, income and the estate taxes. This "gang of 11" was very determined and worked diligently to modify this proposal to accommodate various objections that arose during the deliberations. This proposal was rolled out toward the end of the legislative session and the clock eventually ran out. Tax reform, however, continues to be of vital interest to a number of legislators.

Minimum Wage

A proposal to raise the minimum wage progressively each year from 2014 to 2016 to a total of \$9 per hour and then adjust that wage to inflation thereafter, LD 611, was passed by a majority in the House and Senate. The Governor then vetoed this legislation and the Legislature did not generate the 2/3rds support necessary to override the veto, killing this bill. Support for this bill was sharply divided along party lines.

Legislative Reapportionment

After every federal census, the 186 state House and Senate districts must be redrawn in order to maintain roughly equivalent populations in each district. This year, a reapportionment commission met to redraw the boundaries. Unlike the experience in past years, the electoral maps drawn this year were supported unanimously by the reapportionment commission. When this plan proceeded through the Legislature in the form of LD 1557 it received almost unanimous support. The plan was then signed into law by the Governor. Given the bipartisan support for this plan, reapportionment was a non-story this year. Heading into 2014, however, these new legislative districts make the next election outcomes even more uncertain and difficult to predict.

Revisiting Legislation Enacted in the Prior Legislature

A large number of bills this session were introduced to revisit or undo initiatives passed in the Republican-controlled 125th Legislature. Many of these proposals did not advance through the process or they succumbed to the Governor's veto pen. This included legislation to impose "tax fairness" or to increase tax progressivity, LD 319, LD 1113 and LD 1256, and proposals to rollback income tax cuts enacted during the last legislation. Ultimately, these proposals did not become law and income tax cuts were preserved.

A proposal to revisit workers' compensation reforms of the 125th Legislature, LD 443, and proposals to revisit recently enacted health insurance reforms also did not advance, LD 83, LD 102, LD 161, LD 225 and LD 546. Funding for a study regarding an East-West highway was also a contentious issue, with six bills being introduced to revisit this issue, LD 362, LD 870, LD 985, LD 1209, LD 1269 and LD 1304. Of these six bills, LD 985 did become law, repealing the Department of Transportation responsibility to conduct a feasibility study. Over 10 bills were introduced to revisit legislation authorizing charter schools that was enacted during the last legislature, LD 233, LD 481, LD 533, LD 671, LD 889, LD 906, LD 995, LD 1056, LD 1057, LD 1128, LD 1346 and LD 1349. Of these twelve bills, four made it to the Governor but died after the Governor vetoed them, LD 671, LD 1057, LD 1128 and LD 1349. A number of bills, LD 901, LD 1059, LD 1302 and LD 1324, proposed revisiting the recently enacted law authorizing metallic mineral mining, but none of these bills were enacted.

Looking Ahead

The First Regular Session of the 126th Legislature adjourned July 10, but Augusta remains busy. After every legislative session, Executive Branch agencies are busy formulating new rules to implement many of the laws that were enacted during the session. The Appropriations and Financial Affairs Committee will continue to meet over the coming months to discuss, among other things, whether or not to send a bond package to the voters in November and, if so, the size of that bond package. A number of different task forces, working groups and legislative studies have been authorized to examine issues ranging from health insurance exchanges to solid waste to tax expenditure policy. These groups will be meeting over the coming months to do their work. Additionally, over 200 bills were carried over to next session, meaning advocates will be using the “off session” to press their issues with key decision-makers in preparation for next year’s session. Finally, advocates and interest groups will be developing new legislation to bring forward this fall by cloture so it may be introduced when the Second Regular Session convenes in January of 2014. Unlike the First Regular Session, legislators need approval of a majority of the Legislative Council (the ten members of leadership) to put forward new bills for consideration during the up-coming Second Regular Session.

Of course, policy isn’t the only thing keeping decision-makers busy. There is a bit of politics that will take place over the coming months as well. There will be a special election to fill the recently vacated Senate District 19 seat. This is the district previously represented by Senator Seth Goodall, who resigned to accept the position of Regional Administrator for the Small Business Administration. District 19 includes the municipalities of Bath, Richmond and Topsham in Sagadahoc County, among others. Republicans and Democrats will be working hard on this election, largely, because the victorious party will tout the win as evidence that momentum favors their party going into 2014, which is an election year. Also, with what looks to be an open seat for Maine’s Second Congressional District seat, there will be plenty of politicking by state legislators looking to make the leap to the federal level. While 2013 is not an election year, there will be plenty of fundraising over the coming months in preparation for next year’s elections. In conclusion, politics and policy will continue to evolve as part of the legislative process that ultimately can affect you and your business. If you have questions about the 126th, please feel free to contact a member of our [Government Relations Group](#): [John D. Delahanty](#) - 207.791.1222; [Andrea C. Maker](#) - 207.629.5928; [Avery T. Day](#) - 207.791.1157.

Business

A number of new laws affecting business organization and operation in Maine were enacted this session. For the most part, those laws enacted are rather technical in nature and were, generally, not subject to significant controversy. More controversial proposals were either defeated or carried over to the next legislative session. In the area of banking and financial services, for example, various proposals to create some form of a state bank, LD 1078, LD 1130 and LD 1508, were all defeated, while significant reform of Maine's foreclosure process, LD 1389, was carried over to the next session. Perhaps, the most interesting proposals regarding commerce and trade were delayed when the Legislature decided to carry over LD 1512, which addresses financing for business starts up, and LD 1328, which proposes to require residential contractors to be licensed. Those bills will be addressed in the next regular session. One interesting economic development law that resulted from this session, LD 586, authorizes municipalities to establish revolving loan funds to support local economic development projects. New laws regarding entity formation and governance simply address the fundamentals and are not controversial. While legislation did advance, some of the trickier business bills of the session will be decided next year, including legislation addressing franchise relationships, LD 1458 and LD 1482, and legislation governing access to vehicle repair information, LD 788.

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](#): [John D. Delahanty](#) - 207.791.1222; [Andrea C. Maker](#) - 207.629.5928; [Avery T. Day](#) - 207.791.1157.

Banking & Financial Services

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LD 1038, *An Act to Make the State's Uniform Commercial Code Compatible with the Federal Electronic Fund Transfer Act* – Public Laws 2013, [chapter 151](#). **This emergency law became effective on May 24.**

This law was passed in anticipation of the effective date of the amendments to federal law governing electronic fund transfers. The new law replaces the existing exemption in Maine's Uniform Commercial Code governing fund transfers by making the Uniform Commercial Code applicable to remittance transfers that are not electronic funds transfers under the federal Electronic Fund Transfer Act. Finally, the new act provides that, in the case of any conflict between the Uniform Commercial Code and the federal Electronic Fund Transfer Act, the federal statute will control.

LD 1389, *An Act to Expedite the Foreclosure Process* – [Carried Over](#).

Next Session the Legislature will consider LD 1389. As proposed, the bill would amend titles 4 and 14 to allow an employee of a financial institution or credit union who is not an attorney to attend foreclosure mediations for that institution in lieu of counsel. The bill would further amend title 14 to clarify other standards of foreclosure mediation including the scope of issues addressed, requisite qualifications of mediators and mandatory content to be included in a mediator's report. In addition, the bill would create an expedited process for the foreclosure of vacant and abandoned property. Finally, the proposed legislation would clarify the obligations of property preservation companies that act on behalf of mortgage servicers to take possession of homes. Other foreclosure proposals will likely be added to this bill next session, as many other foreclosure bills were killed this session with the intention of the Judiciary Committee being that this one bill would serve as the legislative vehicle for these other foreclosure reform proposals.

LD 1410, *An Act to Update the Fair Credit Reporting Act Consistent with Federal Law* – Public Laws 2013, [chapter 228](#).

The purpose of this new law is to assist the Maine Bureau of Consumer Credit Protection, located within the Department of Professional and Financial Regulation in keeping up with recent and fairly frequent changes in federal law in this area by incorporating the federal Fair Credit Reporting Act in its entirety and then re-

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establishing provisions of current Maine law that provide enhanced consumer protection. The new law offers ease of compliance for credit reporting agencies, regulators, creditors and other users of the credit reporting system reducing the difficulty in discerning the differences between Maine and federal law and easing the ability to comply with state law.

Commerce and Trade

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LD 46, *An Act to Protect Maine Business Names* – Public Laws 2013, [chapter 99](#).

Existing law provides that a person may reserve the use of a business name (including assumed or fictitious names) for a nonrenewable period of 120 days. This new law clarifies that although the reservation period is not renewable, the same applicant may apply for successive reservations of the same name. This change applies to reservations applicable to corporations (business and nonprofit), limited liability partnerships and companies, and limited partnerships. This new law also directs the Secretary of State to develop further options for the filing and protection of business names including the consequences of expanding registration to sole proprietorships and general partnerships.

LD 71, *An Act to Regulate Dealers in Secondhand Precious Metals* – Public Laws 2013, [chapter 398](#).

This new law enacts legislation regulating dealers in second hand metals. It requires persons who engage in the business of purchasing or acquiring secondhand precious metals through exchange to (i) obtain a municipal permit; (ii) conform to a holding period of up to 15 days where the dealer may not sell or alter the precious metals; (iii) obtain reasonable proof of the seller's identity; and (iv) maintain records of purchases available for inspection by law enforcement for a period of at least one year. Auctioneers are exempt from the law. Dealers whose violate these requirements are guilty of a Class E crime and courts are permitted to award restitution to any victim who suffers economic loss as result of the violation.

LD 111, *An Act to Restrict the Sale, Purchase and Use of Fireworks in the State* – [Carried Over](#).

This bill proposes repeal of the law enacted during the last legislature permitting the sale, purchase and use of consumer fireworks in Maine.

LD 176, *An Act to Amend and Clarify the Maine Uniform Securities Act* – Public Laws 2012, [chapter 39](#).

This new law makes several amendments to the Maine Uniform Securities Act (the "Act"). First, it permits the Securities Administrator of the Office of Securities to institute a license revocation or suspension proceeding against a licensed broker-dealer, agent, investment adviser, or investment adviser representative within one year from the time such person's license becomes ineffective due to non-renewal. Second, the law clarifies that, in seeking a criminal conviction against a person under the Act, the State need not prove that such person had knowledge of the relevant provisions of the Act. Finally, the law provides that the Securities Administrator may order restitution as part of a final order issued pursuant to an administrative proceeding under the Act.

LD 718, *An Act to Protect Maine Food Consumers' Right to Know about Genetically Engineered Food* – [Enacted and Pending Governor's Action](#).

This bill is one of about twenty bills that were sent to the Governor just before the session adjourned, allowing the Governor to hold this bill until the Legislature reconvenes. The Governor has indicated that he will sign this bill when the Legislature reconvenes in January of 2014. This bill would require that any food offered for retail sale that is genetically engineered be labeled as such and prohibit genetically engineered food from being identified as "natural." Violations of this labeling requirement would be a fine up to \$1,000 per day per misbranded product per sales location. This bill also provides that this law would not take effect until similar labeling laws are adopted in at least five contiguous states including Maine. This bill proposes repeal of this law if five contiguous states do not adopt similar laws by January 1, 2018.

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LD 788, *An Act to Provide Vehicle Owners and Repair Facilities Access to Vehicle Diagnostic and Repair Information and Equipment* – [Carried Over](#).

This bill would require vehicle manufacturers to provide diagnostic and repair information and equipment to vehicle owners and independent vehicle repair facilities. Additionally, this bill proposes that vehicle owners and independent vehicle repair facilities also be granted access to on-board diagnostic and repair information. This bill proposes that violations of these requirements would be an unfair trade practice pursuant to Title 5.

LD 1266, *An Act to Provide the Securities Administrator with the Power to Investigate Potential Violations Involving the Sale of Business Opportunities* – Public Laws 2013, [chapter 224](#). **This emergency law became effective on June 10.**

This law clarifies the powers of the Securities Administrator, the official that oversees the Office of Securities, in conducting investigations to uncover potential and existing violations in the markets surrounding the sale or lease of services or equipment to a purchaser starting a business. The law grants the Securities Administrator broad power to conduct investigations to determine whether a person has violated, or is about to violate, (i) a provision of the chapter regulating the sale of business opportunities or (ii) any order of the Securities Administrator. The scope of the power granted to the Securities Administrator is broad, including subpoena power over affiliates, witnesses, documents and other sources of information that the Securities Administrator, in his or her discretion, considers relevant.

LD 1270, *An Act to Provide That Innkeepers and Certain Campground Operators Are Not Considered Landlords* – Public Laws 2013, [chapter 209](#). **This emergency law became effective on June 5.**

This new law amends provisions of existing laws governing innkeepers and campground operators to reinforce that they are not landlords and that their guests are not due the same protections afforded tenants under the Maine landlord and tenant laws. Both the definition of “innkeeper” in 30-A MSRA §3801 and the definition of “membership camping operator” in 33 MSRA §589 are amended to include language establishing that such proprietors are “not a landlord pursuant to the landlord and tenant laws.” The definition of a “purchaser” of a membership camping contract is also amended to assert that a purchaser is not, by virtue of their membership purchase, a tenant for purposes of the landlord and tenant laws. Further, the bill bolsters the rights of innkeepers and campground operators to seek the assistance of law enforcement in removing guests that will not leave voluntarily after being asked, a right not afforded landlords in evicting tenants.

LD 1277, *An Act to Streamline the Charitable Solicitations Act* – Public Laws 2013, [chapter 313](#).

This new law amends the Charitable Solicitations Acts, seeking to streamline and reduce unnecessary regulation of charitable organizations. Charitable organizations that (i) solicit primarily within their own existing membership (without contracting with professional solicitors or fund-raising counsel), (ii) do not receive contributions in excess of \$35,000 in a calendar year (up from \$10,000), or (iii) do not receive contributions from more than 35 persons (up from 10), no longer need to obtain licenses under the Act. Commercial co-venturers also no longer need to obtain a license. The law simplifies licensee/applicant filing requirements and the content of required activity reports, while imposing (i) an obligation upon licensees to notify the Director of material changes in their license information and (ii) a requirement that the physical address of the charitable organization for which solicitations are being conducted be disclosed to each prospective donor.

LD 1328, *An Act to License Home Building and Improvement Contractors* – [Carried Over](#).

This Legislature has carried over a bill proposing to regulate the home building and improvement contractor industry. The proposed bill would require persons practicing as home contractors or home contractor salespersons to be licensed by a newly created Maine Home Contractor Licensing Board under the commissioner of Professional and Financial Regulation. The Board would be directed to establish license qualifications and standards of practice, including financial responsibility, minimum qualifications, and good standing in the industry (no liens or judgments). Licensees would also need to hold minimum insurance policies covering their regulated activities and be subject to minimum continuing education requirements. The act would also establish certain mandatory provisions for all contracts with home owners.

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LD 1384, *An Act to Amend Article 9-A of the Uniform Commercial Code* – Public Laws 2013, [chapter 317](#). This emergency law became effective on June 21.

This new law enacts the 2010 amendments to the Uniform Commercial Code as proposed by the National Conference of Commissioners on the Uniform State Laws, with minor modifications. These amendments have the most significant import for those who file UCC financing statements, judgments or statutory lien notices with a UCC division of a Secretary of State. Please see our recent [Business Counselor article](#) describing the changes in more detail.

LD 1458, *An Act to Enact the Maine Small Business Investment Protection Act* – [Carried Over](#).

This bill proposes drastic changes to existing law regulating the relationship between a franchisor and a franchisee. Among other things, this bill would limit the ability of a franchisor to control promotional campaigns, sales quotas, prices and hours of operation. Additionally, this bill would impose certain fiduciary duties on franchisors, regulate transfers of licenses and franchises and provide for treble damages and attorneys' fees when certain actions are brought by franchisees.

LD 1482, *An Act to Amend the Motor Vehicle Franchise Laws* – [Carried Over](#).

This bill proposes several amendments to the motor vehicle dealer franchise law that would alter the relationship between vehicle manufacturers and vehicle dealers. Among other things, this bill touches upon the supply and mix of vehicles provided to dealers, purchases of special or essential tools, access to dealership data and payment for warranty service.

LD 1512, *An Act to Increase Funding for Start-ups* – [Carried Over](#).

In the next Session the Legislature will consider LD 1512. If enacted, the bill will seek to make it easier for Maine businesses to raise capital by selling small amounts of equity to a larger pool of investors, including offerings via Internet website. Specifically, this proposed bill would amend the Maine Uniform Securities Act (the "Act") by adding a "Maine seed capital exemption" as a transaction exempt from the registration and advertising literature filing requirements of the Act. Pursuant to the bill, an issuer transaction or sale will be exempt from these requirements if, among other things, (i) the issuer is a business entity formed and registered under Maine law; (ii) the purchasers of the securities at issue are Maine residents; (iii) the size of the offering in question does not exceed \$1,000,000 if the issuer has not undergone, and provided documentation from, a financial audit in the previous year meeting generally accepted accounting principles, or \$2,000,000 if the issuer has undergone, and provided documentation from, such an audit; (iv) the issuer does not accept more than \$2,000 from any single purchaser unless the purchaser meets the definition of an "accredited investor" under federal law; (v) before the earlier of any general solicitation or the 25th sale pursuant to the offering, the issuer files a notice specifying that the issuer is relying on the exemption and identifying the issuer, all persons involved in the offering on behalf of the issuer, and the bank or other institution in which investor funds will be deposited; and (vi) the issuer informs all purchasers that the securities being offered have not been registered under the Act and are subject to resale restrictions under federal law and requires all purchasers to provide a written acknowledgement that the purchaser assumes the risks associated with the investment.

Economic Development

Contact

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LD 314, *An Act to Create the Office of Marketing* – [Carried Over](#).

This bill proposes the creation of an office of Marketing within the Department of Economic and Community Development. This office would oversee all State marketing efforts through a State marketing plan, which would include coordinating requests for proposals, marketing contracts and participation in exhibits.

LD 586, *An Act to Enable Municipalities to Establish Business Development Loan Programs Using Municipally Raised or Appropriated Money* – Public Laws 2012, [chapter 206](#).

This new law amends 30-A M.R.S.A § 5726 to provide that a municipality may raise or appropriate money in

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order to establish revolving loan fund programs to assist local for-profit and non-profit enterprises in job creation and retention efforts, provided that the municipality first receives approval at a referendum election.

LD 721, *An Act to Provide Transparency in Public-private Partnerships for Transportation Projects* – Public Laws 2013, [chapter 208](#).

This new law provides that certain trade secret and competitive materials used or submitted in connection with a proposal for a public-private partnership for a transportation project are confidential unless the private party chooses not to defend the confidentiality, or a court deems otherwise.

LD 985, *Resolve, To Repeal the Requirement That the Department of Transportation Facilitate a Feasibility Study of an East-West Highway and Provide for Public Access to Certain Documents* – Resolves 2013, [chapter 41](#).

This resolve repeals Resolves 2011, chapter 147, “Resolve, to Require the Department of Transportation to Facilitate and Oversee a Study of the Feasibility of an East-West highway.” This resolve further provides that any documents created in connection with Resolves 2011, chapter 147 are public documents and are not confidential. This resolve also prohibits the department from seeking reimbursement for any study conducted pursuant to Resolves 2011, chapter 147.

LD 1393, *An Act to Encourage Entrepreneurial Investment in Maine*, [Carried Over](#).

In the next Session the Legislature will consider LD 1393. This proposed bill, currently a concept draft, proposes to bring together groups of individuals in Maine on the cutting edge of entrepreneurship, innovation, and economic philanthropy in order to encourage entrepreneurial investment in Maine from both internal and external sources and increase Maine’s role in the global economy. The proposed bill identifies specific purposes for these groups in order to achieve these goals, including, among other things, to (i) identify innovative business models and financing options; (ii) bring together leaders in business, social, and cultural sectors to marshal stakeholders in Maine’s future and draw on expertise and vision in the fields of business, education, science, technology, culture, and the environment; (iii) identify Maine’s strengths as a location of education and research institutions having global reputations and significant natural resources and as a home to a workforce with substantial potential and a reputation for problem solving and hard work; (iv) identify areas where educational and governmental resources can be re-allocated to support the development of an environment that will attract investment from both outside and within the State; and (v) develop a short- and long-term strategy to enhance and increase awareness of Maine’s advantages and opportunities for the creation of new businesses and expansion of existing businesses.

Entity Formation and Governance

Contact

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LD 503, *An Act to Amend the Limited Liability Company Laws* – Public Laws 2013, [chapter 58](#). **This emergency law became effective on May 3.**

This new law amends Section 1508 of the Maine Limited Liability Company Act (the “LLC Act”) to remove the requirement that the name of a limited liability company filing an assumed name or registering the name of a foreign limited liability company contain the words “limited liability company,” “limited company,” the abbreviation “L.L.C.,” “LLC,” “L.C.” or “LC” or, in the case of a low-profit limited liability company, “L3C” or “13c.” This amendment makes the LLC Act consistent with corporate and other entity naming laws.

LD 1485, *An Act Relating to Insurance Company Formation and Dissolution* – Public Laws 2013, [chapter 299](#).

This new law resolves certain insurance company formation and dissolution ambiguities that were arising in Maine practice. References within the Maine Insurance Code have been updated for consistency with the Maine Business Corporation Act, and the law now expressly clarifies that Maine insurance corporations are subject to the Maine Business Corporation Act. Filings have also been simplified and reduced (filings no longer required with the registry of deeds in the county of the insurer’s principle place of business).

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Education

The Education Committee was active this year, processing close to 150 bills. Some significant bills became law, such as LD 1412, which creates a program enabling career and technical education students to earn college credits in high school so that they can earn an associate degree after one year of college. The Committee also spent a considerable amount of time addressing bills aimed at amending the charter school law enacted during the last legislature. Additionally, education spending was a major issue this legislative session as the Appropriations Committee worked to put together the biennial budget, LD 1509. While major spending reforms were not enacted, the budget did adopt a proposal advanced by the Governor that will require municipalities to fund a portion of teacher retirement costs for teachers in their districts.

If you have a question about any of the new laws summarized in the Education section of this report, what the statutory changes mean for you and your organization, 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](#): [John D. Delahanty](#) - 207.791.1222; [Andrea C. Maker](#) - 207.629.5928; [Avery T. Day](#) - 207.791.1157.

Primary Education

Contact

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LD 130, *An Act to Stabilize Education Funding by Reducing the Impact of Changes in Property Valuation* – Public Laws 2013, [chapter 203](#).

This new law attempts to stabilize state funding for education by requiring the “property fiscal capacity” component of the essential programs and services funding formula to be based on a two-year average of property values in a municipality for fiscal year 2014-2015 and then a three-year average thereafter.

LD 323, *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* – Resolves 2013, [chapter 52](#). **This emergency law became effective on June 13.**

This resolve provides for major substantive review of Department of Education rules regarding special education. Unlike most resolves providing for major substantive review of agency rulemaking, this resolve sets out extensive modifications to the proposed rule before it may be finally adopted. Many of these modifications seek to align Department rules with federal regulations.

LD 439, *An Act to Improve Maine’s Charter School Laws* – Public Laws 2013, [chapter 272](#).

This new law makes slight modifications to the charter school law that was adopted in the 125th Legislature, a law that has been the subject of some political controversy. This new law clarifies when the 90-day deadline commences when an application for a charter school is submitted and allows the application to be incorporated by reference into the charter contract. This new law also addresses adjustments to payments from non-charter schools to charter schools by allowing for periodic updates to avoid overpayments when students leave a charter school during the middle of the school year.

LD 442, *Resolve, To Ensure the Continued Accessibility and Affordability of a High School Equivalency Exam for Maine Residents* – Resolves 2013, [chapter 49](#).

This resolve directs the Department of Education to conduct a study of all options for the administration of the high school equivalency examination, including a computer-based examination. The Department is expressly directed to analyze the costs of implementing a new exam system. Finally, the Department is directed to submit a report and plan for the administration of this exam to the Legislature by October 1, 2013.

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LD 466, *An Act to Amend the Laws Governing Awarding a High School Diploma to Veterans* – Public Laws 2013, [chapter 281](#).

This new law allows for the awarding of a high school diploma to qualifying veterans who did not finish secondary school after the Vietnam War era.

LD 530, *An Act to Ensure that the Standard of a Student’s Best Interest is Applied to Superintendent Agreements for Transfer Students* – Public Laws 2013, [chapter 337](#).

This new law establishes the process for appeal of a denial of a request to allow a student to transfer from one school administrative unit to another. Under this new process, the initial request is made to a superintendent and a denial can be appealed to the Commissioner of Education and then to the State Board of Education. Under this new law, the superintendent and the Commissioner must both provide a written response to the request.

LD 729, *An Act to Allow Charter Schools to Request Waivers from Certain Requirements* – Public Laws 2013, [chapter 216](#).

This new law places limitations on waivers of statutory requirements that can be granted to charter schools. Under this new law, statutory requirements regarding civil rights, health and safety, student assessment and accountability, conflict of interest, public records and proceedings, criminal history record checks and fingerprinting, and special education cannot be waived. Additionally, this new law requires the Commissioner of Education to report to the Legislature annually the number of waivers sought and granted.

LD 843, *An Act to Promote the Financial Literacy of High School Students* – Public Laws 2013, [chapter 244](#).

This new law requires that course work regarding personal finance be part of the required subject of social studies and history that is required for graduating high school. Additionally, this new law requires the Commissioner of Education to review proficiency in personal finance during the Commissioner’s 2015-2016 review of content standards and performance indicators.

LD 905, *Resolve, Directing the Department of Education to Examine School Security* – Resolves 2013, [chapter 76](#). **This emergency resolve became effective on July 10.**

This resolve directs the Department of Education to gather information regarding the preparedness of schools and the security of schools in the event of an emergency. In consultation with security experts, the Department is directed to develop recommendations to improve preparedness and school security. These findings must be reported to the Legislature by January 15, 2014. Close to \$50,000 in funding is also made available to the Department to carry out the directives of this resolve.

LD 944, *Resolve, to Review the Impact of Unfunded Education Mandates and Evaluate the Efficacy of Education Laws* – Resolves 2013, [chapter 74](#). **This emergency resolve became effective on July 3.**

This resolve directs the Department of Education to develop a list of current unfunded and underfunded federal and state education mandates that have resulted in an adverse impact on schools. This resolve further directs the Commissioner of Education to establish a committee to review these mandates and to identify a list of priority recommendations regarding mandates that should be repealed or amended by the Legislature. This report along with suggested legislation must be submitted to the Legislature by January 10, 2014.

LD 1106, *An Act to Develop a Grant Program to Establish a Teacher-Led School Model* – Public Laws 2013, [chapter 303](#).

This new law facilitates the establishment of teacher-led schools by authorizing schools and school boards to create plans for teacher-led schools. Further, this new law allows school boards to obtain waivers to education laws and rules necessary for teacher-led schools and allows for certain funds to provide grants to cover the costs of establishing teacher-led schools.

LD 1132, *An Act to Achieve Economic Growth by Enhancing Science, Technology, Engineering and Mathematic Education and to Meet Workforce Needs* – Public Laws 2013, [chapter 410](#). **Governor’s veto overridden.**

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This new law expands upon the existing STEM Council by creating an Executive Director of the Council and allows the Council to receive and expend funds from public and private sources. Additionally, this new law provides funding for the Executive Director position at the Council. This was one of a handful of bills that became law after the Governor's veto was overridden.

Higher Education

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LD 61, *An Act to Amend Standards for Participation in Certain Public School Services by Students who are Homeschooled* – Public Laws 2013, [chapter 400](#).

This new law establishes standards by which homeschooled students can receive state tuition subsidies for certain postsecondary courses.

LD 677, *An Act Concerning Postsecondary Tuition Waivers for Children of Veterans* – Public Laws 2013, [chapter 365](#).

This new law amends existing law providing tuition waivers for children of veterans by providing that a student receiving this waiver may take an additional two years to complete their education under certain circumstances. Additionally, this new law requires state-supported educational institutions to provide the Bureau of Veterans' Services with a list of students receiving these waivers.

LD 963, *An Act to Expand Access to Early Postsecondary Education* – [Enacted and Pending Governor's Action](#).

This bill is one of about twenty bills that were sent to the Governor just before the session adjourned, allowing the Governor to hold this bill until the Legislature reconvenes. This bill seeks to amend existing law regarding when a high school, adult education, home school or private school student is eligible for state subsidy to take postsecondary courses, the amount of that subsidy, and how these courses are credited at the current educational institution and an eventual postsecondary institution.

LD 1137, *An Act to Facilitate Veterans' and their Spouses' Access to Employment, Education and Training* – Public Laws 2013, [chapter 311](#).

This new law requires each board, commission and agency within the Department of Professional and Financial Regulation to adopt a process to facilitate professional licensing of certain military veterans and their spouses when military training and service could provide alternative qualifications for licensing. This new law also clarifies that non-resident students receiving federal education benefits for veterans be considered eligible for in-state tuition for purposes of the state waiver.

LD 1300, *An Act to Promote and Expand Awareness of the Educational Opportunity Tax Credit* – Public Laws 2013, [chapter 417](#).

This new law requires that various state agencies promote the existing Educational Opportunity Tax Credit among recent higher education graduates. Under this new law, the Departments of Education and Labor and state higher education institutions are tasked with publicizing the availability of this tax credit to students, parents, employees and staff. Further, the Finance Authority of Maine is provided with \$20,000 annually to contract with a private nonprofit to market the tax credit.

LD 1412, *An Act to Create an Educational Collaborative Partnership to Implement a Program that Enables Career and Technical Education Students to Earn College Credits while Attending High School* – Public Laws 2013, [chapter 318](#). **This emergency law became effective on June 21.**

This new law creates a collaborative of various educational institutions, including career and technical education programs, to develop a program for students that allows their last two years of high school to count for college credit, ultimately allowing these students to receive an associate degree within one year of receiving their high school diploma.

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Employment

This session resulted in a number of new employment and workers' compensation laws but few sweeping reforms in this area. While four new workers' compensation laws are summarized below, the major workers' compensation bill this session, LD 433, did not become law due to a veto by the Governor. The story is very similar when it comes to other employment-related bills. While some measures did become law, more sweeping proposals were defeated. This includes LD 1198, which addressed earned pay, LD 611, which proposed an increase in the minimum wage, LD 777, which addressed accommodations to employees who breast feed, and LD 830, which addressed accommodations to pregnant employees. For the most part, these defeated reforms became partisan issues and were defeated after the Governor vetoed these proposals. Some interesting bills, such as LD 1194, which provides protections to employees' social media and e-mail accounts, have been carried over to the next legislative session.

If you have a question about any of the new laws summarized in the Employment 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](#): [John D. Delahanty](#) - 207.791.1222; [Andrea C. Maker](#) - 207.629.5928; [Avery T. Day](#) - 207.791.1157.

Workers' Compensation

Contact

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LD 1, *An Act to Amend the Maine Workers' Compensation Act of 1992* – Public Laws 2013, [chapter 63](#).

This new law contains several technical changes to the Workers' Compensation Act proposed by the Workers' Compensation Board, few of which effect meaningful changes. Three exceptions are that (1) an employee injured while working for an employer with 200 or fewer employers now has 2 years rather than 1 in which to petition for reinstatement to work; (2) an employer must reimburse its insurer for late filing penalties if the employer is responsible for the late filing of a First Report of Injury (FROI); and (3) benefits must be paid while an appeal is pending before the new Appellate Division, and benefits paid while a case is pending before the Appellate Division are subject to repayment in the same manner as when the Law Court decides an employee is not entitled to compensation.

LD 706, *An Act to Amend the Workers' Compensation Self-insurance Laws* – Public Laws 2013, [chapter 172](#).

This new law provides flexibility for employers who self-insure for workers' compensation to modify retention levels for self-insurance reinsurance accounts in response to medical inflation and other changes in circumstances with approval of the Superintendent of Insurance. It also revises the investment standards for self-insurance deposits and trusts to reduce concentration risk and other market risks posed by specifying a narrow range of permitted investments, as was the case under prior law.

LD 949, *An Act to Ensure the Proportional Offset against Retirement Benefits of Workers' Compensation Award* – Public Laws 2013, [chapter 152](#).

This new law addresses the situation of an employee who receives workers' compensation benefits and also a pension or retirement payment funded by multiple employers. Under the law prior to this one, the workers' compensation award would have been offset by the full after-tax amount of a pension or retirement benefit received by an injured employee, for those employees that did not contribute directly to the pension or retirement plan or program. For employees that did contribute to their pension or retirement plan or program, their workers' compensation awards would have been offset only by the proportional amount that the employer contributed to their plan. This new law allows for the same proportional offset of pension and retirement benefits, based on the employer's contributions to the pension or retirement program, regardless of whether the employee contributed directly to the pension or retirement plan.

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LD 1376, *An Act to Ensure the Choice of a Pharmacy for Injured Employees under the Workers' Compensation Act of 1992* – Public Laws 2013, [chapter 164](#).

As enacted, this law simply permits an employee who obtains prescription medication as a result of a workers' compensation injury to select the pharmacy from which the medication is obtained. The bill does not affect cost or reimbursement for such medications, however.

General

Contact

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LD 206, *An Act to Protect Title to Real and Personal Property of Public Employees and Public Officials* – Public Laws 2013, [chapter 160](#). **This emergency law became effective on May 29.**

This law adds a new provision protecting public employees and officials from having liens filed against their property when the liens are without legal basis or are filed to hinder or harass the public employee or official in the exercise of his or her official duties.

LD 416, *An Act to Allow Complainants in Disciplinary Actions To Attend Informal Conferences Held by the State Board of Nursing in Executive Session* – Public Laws 2013, [chapter 23](#).

This law permits nurses involved in disciplinary proceedings before the Board of Nursing to be present and to speak at informal conferences.

LD 639, *An Act to Require Payment Quotes in Service Contracts for the Harvesting and Hauling of Wood* – Public Laws 2013, [chapter 154](#).

This law adds a requirement that service contracts for harvesting and hauling wood must disclose in writing to the harvester and hauler the price per ton of the wood.

LD 690, *An Act to Ensure Efficiency in the Unemployment Insurance System* – [Carried Over](#).

This bill would require Deputies in the Bureau of Unemployment Insurance to determine within 30 days all non-monetary issues in unemployment cases.

LD 929, *An Act to Amend the Requirements for the Reporting of New Hires* – Public Laws 2013, [chapter 279](#). **This emergency law became effective on June 18.**

This law enacts changes to the requirement that employers report new hires to the Maine Department of Health and Human Services (DHHS). It conforms Maine law to a change in federal law that added to the definition of "new hire" an employee rehired after at least 60 consecutive days of no work. It also eliminates the requirement that an employer receive notice from DHHS before having to make the report.

LD 1134, *An Act to Allow Collaborative Practice Agreements between Authorized Practitioners and Pharmacists* – Public Laws 2013, [chapter 308](#).

This law authorizes licensed, qualified pharmacists to engage in collaborative drug therapy management pursuant to a collaborative practice agreement with an authorized practitioner.

LD 1154, *An Act to Establish the Maine Length of Service Award Program* – [Carried Over](#).

This bill would authorize State and local governments and emergency services providers to participate in the funding of a program that provides pension-type payments to certain volunteer firefighters and medical emergency services providers.

LD 1157, *An Act to Establish the Fair Chance for Employment Act* – [Carried Over](#).

The original version of this bill would prohibit employers from taking an applicant's current employment status (*i.e.* unemployed) into account along with numerous other related actions. A pending amendment adopted by the Joint Standing Committee on Labor, Commerce, Research and Economic Development eliminates that prohibition, and prohibits only the advertising by employers and employment agencies that current employment status is a requirement for being hired.

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LD 1194, *An Act to Protect Social Media Privacy in School and the Workplace* – [Carried Over](#).

This bill would prohibit an employer or educational institution, whether public or private, from requiring or requesting an employee or a student, or a prospective employee or student, to disclose the username or account password for a personal social media account or e-mail account or to otherwise provide the employer or institution with access to those accounts. Educational institutions would face a \$1,000 civil penalty for each violation, plus payment of attorneys' fees. Employers would face a penalty of three times any lost wages, a \$1,000 civil penalty, and payment of attorneys' fees.

LD 1203, *An Act to Encourage Financing of Manufactured Housing for the Workforce* – Public Laws 2013, [chapter 295](#).

This new law amends the Maine Secure and Fair Enforcement for Mortgage Licensing Act to specify that a person is not required to be licensed as a mortgage loan originator if that person does not engage in the business of a mortgage loan originator in a commercial context habitually or repeatedly or is a government employee acting in that employee's official capacity as a government employee.

LD 1250, *An Act to Revise Maine's Unemployment Compensation Laws* – Public Laws 2013, [chapter 175](#).

26 M.R.S. § 1221(3) provides for situations where an employer's experience rating is not adversely affected by an employee's separation from employment. This law adds to that list situations where an employee is hired to fill a position vacated by a person taking family medical leave, and then is separated when the person returns to work at the completion of the leave.

LD 1311, *An Act to Amend the Laws Governing Unemployment Compensation to Ensure Conformity with the Federal Trade Adjustment Assistance Extension Act of 2011* - Public Laws 2013, [chapter 314](#).

This new law adds several new sections to the Title 26 chapter governing unemployment compensation, the effect of which is to prevent employers from getting relief for charges to their experience rating record with respect to the erroneous payment of benefits if the employer fails to respond timely to requests from the state for information about the claim, and the employer has a pattern of failing to make timely responses.

LD 1313, *An Act to Amend Licensing Requirements for Professional Engineers* - Public Laws 2013, [chapter 296](#).

This new law makes multiple changes to the law governing the licensing of professional engineers. The changes include removal of references to exam forms and times and to examination fees. It also makes changes to licensure processes, including re-examinations upon failures, and removes the requirement that notices of license expirations must be mailed. It also addresses the process for re-activation of a retiree licensee.

LD 1328, *An Act to License Home Building and Improvement Contractors* – [Carried Over](#).

This Legislature has carried over a bill proposing to regulate the home building and improvement contractor industry. The proposed bill would require persons practicing as home contractors or home contractor salespersons to be licensed by a newly created Maine Home Contractor Licensing Board under the Commissioner of Professional and Financial Regulation. The Board would be directed to establish license qualifications and standards of practice, including financial responsibility, minimum qualifications, and good standing in the industry (no liens or judgments). Licensees would also need to hold minimum insurance policies covering their regulated activities and be subject to minimum continuing education requirements. The act would also establish certain mandatory provisions for all contracts with home owners.

LD 1352, *An Act to Provide Integrated Community-based Employment and Customized Employment for Persons with Disabilities* - Public Laws 2013, [chapter 335](#).

This law creates a program within the Department of Health and Human Services to facilitate community-based and customized employment for persons with disabilities, and establishes until October of 2016 the Employment First Maine Coalition at the Disability Rights Center to advance such employment opportunities for persons with disabilities.

LD 1498, *An Act to Amend the Labor Laws as They Relate to Payment for Required Medical Examinations* - Public Laws 2013, [chapter 363](#).

This new law amends the existing statute that requires employers to pay the cost of any medical exam required of employees or applicants by specifying that the employer must cover any out-of-pocket costs including copayments.

LD 1437, *An Act to Amend the Laws Regarding Licensure of Physicians and Physician Assistants* - Public Laws 2013, [chapter 355](#).

This new law amends multiple provisions governing the licensing of physicians and physician assistants, including in particular subjecting physician assistants to the same duty as physicians to report acts of gross or repeated malpractice, drunkenness, addiction to drugs, incompetence, unprofessional misconduct or sexual misconduct.

Energy & Telecommunications

The key piece of energy legislation this session was undoubtedly LD 1559, an omnibus energy bill which incorporates elements of over a dozen individual bills and aims to reduce energy costs, increase funding for energy efficiency, make it more affordable for residents to abandon oil heat, and promote New England's natural gas infrastructure. The new law passed both houses with bipartisan support, despite veto threats from Governor LePage. On June 19, 2013, the Governor vetoed the bill; however, it was immediately revived by a 121-11 override vote in the House. The Senate later voted 35-0 to override the veto. The unanimous Senate vote was the result of the passage of the Governor supported LD 1472, which makes offshore wind power eligible for loans from the Finance Authority of Maine. LD 1472 was amended to require the Public Utilities Commission to issue a second request for proposals, giving the University of Maine a chance to qualify for a contract and compete for a federal grant to develop an offshore wind project. Other bills that passed during the First Regular Session included legislation related to geomagnetic disturbances, wind development, bio-fuels, and legislation aiming to ensure that emerging technologies are incorporated into the Public Utilities Commission's existing programs and services.

If you have a question about any of the new laws summarized in the Energy & Telecommunications 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](#): [John D. Delahanty](#) - 207.791.1222; [Andrea C. Maker](#) - 207.629.5928; [Avery T. Day](#) - 207.791.1157.

Electric

Contact

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LD 131, *Resolve, Directing the Public Utilities Commission to Examine Measures to Mitigate the Effects of Geomagnetic Disturbances and Electromagnetic Pulse on the State's Transmission System* - Resolves 2013, [chapter 45](#). **This emergency resolve became effective on June 10.**

This resolve directs the Public Utilities Commission to examine the vulnerabilities of the State's infrastructure to potential impacts of a geomagnetic disturbance or an electromagnetic pulse. Because these events can disable, disrupt, and destroy the transmission and distribution system, the Public Utilities Commission is also directed to identify potential mitigation measures. Additionally, the Commission must: estimate the costs of potential mitigation measures; develop options for low-, mid-, and high-cost measures; examine the positive and negative effects of adopting a policy incorporating mitigation measures into the future construction and retrofitting of existing transmission lines; develop a time frame for adoption of mitigation measures; and develop recommendations regarding the allocation of cost to mitigate the effects of geomagnetic disturbances and electromagnetic pulses. This resolve also directs the Commission to monitor federal efforts regarding mitigation measures, including the development of any reliability standards. Pursuant to this resolve, the Public Utilities Commission is required to report the results of its examination to the Joint Standing Committee on Energy, Utilities and Technology by January 20, 2014. The Joint Standing Committee may then submit a bill to the Second Regular Session based on the report.

LD 302, *Resolve, Directing the Public Utilities Commission to Review Certain Electricity Distribution Charges Assessed on Businesses* - Resolves 2013, [chapter 20](#).

This resolve requires the Public Utilities Commission to submit to the Joint Standing Committee on Energy, Utilities and Technology a report on the demand charges placed on the medium rate class by an investor-owned transmission and distribution utility. The report must include:

- an examination of how utilities determine whether a business should be in the medium rate class and therefore subject to demand charges;
- an examination on the impact of demand charges on seasonal businesses, new customers, and business innovation; and

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- any recommended changes to a utility's terms and conditions to make the demand charges more just and reasonable.

LD 385, *An Act to Improve Wind Energy Development Permitting* – Public Laws 2013, [chapter 325](#).

This law states that wind energy development constitutes a significant adverse effect on the natural environment if proposed in a fir-heartleaved birch subalpine forest natural vegetation community. Pursuant to this law, wind energy permits must require best practical mitigation to reduce impacts on scenic, wildlife, and other resources. This new law also improves the permitting process for wind energy development by providing that the public may request a public hearing, permitting an intervener to request an adjudicatory hearing, and providing for public comment on an application.

LD 437, *An Act to Streamline the General Permit Process for Tidal Power to Remove a Conflict with a Federal Permit Requirement* – Public Laws 2013, [chapter 177](#).

The act streamlines the permitting of a tidal energy demonstration project by the Department of Environmental Protection by clarifying that a finding of “no significant environmental impact” by the Federal Energy Regulatory Commission is not required for the Department to accept the application for processing. Under this act, the date of notification of acceptance of the application for processing must be within 30 days of the filing of an assessment if it was not filed at the same time as the initial application.

LD 616, *An Act to Amend the Expedited Permitting Area for Wind Energy Development under the Jurisdiction of the Maine Land Use Planning Commission* – [Carried Over](#).

This bill amends the language of the public law implementing recommendations of the Governor's Task Force on Wind Power Development to remove Carrying Place Township, Concord Township, Highland Plantation, Lexington Township, and Pleasant Ridge Plantation from the expedited permitting area. This bill also directs the Maine Land Use Planning Commission to amend its rules accordingly.

LD 646, *An Act to Remove the 100-megawatt Limit on Renewable Sources of Energy* – [Carried Over](#).

This bill removes the 100-megawatt maximum capacity limit for a source of electrical generation to qualify as a renewable resource for the purposes of meeting the State's renewable resource portfolio requirement.

LD 796, *Resolve, To Enhance Economic Development by Encouraging Businesses Adjacent to Electric Power Generators to Obtain Power Directly* – [Carried Over](#).

This resolve proposes to establish a stakeholder group to identify barriers to and incentives for the direct purchase of electricity by businesses adjacent to electricity-generating facilities, with the intent that the direct purchase of the electricity will decrease total electricity costs to the business. The stakeholder group would include representatives from the Public Utilities Commission, the Office of the Public Advocate, the Governor's Energy Office, the Department of Economic and Community Development, municipalities, business associations, transmission and distribution facilities, electricity generators, and up to two Legislators appointed by the presiding officers. Specifically, the stakeholder group would examine the effects of exit fees, limitations on authority to construct transmission lines, and the need for backup service from transmission and distribution utilities on the ability of a business to purchase electricity directly from an electricity-generating facility adjacent to the business' property. The stakeholder group would also consider the feasibility of designating businesses located adjacent to electricity-generating facilities as Pine Tree Development Zone businesses in order to encourage development in those locations so that businesses may take advantage of certain benefits provided under the Electric Industry Restructuring statutes. Pursuant to this resolve, the stakeholder group would be required to report to the Joint Standing Committee on Energy, Utilities and Technology by January 15, 2014 the findings and recommendations of the stakeholder group. The Committee would then be authorized to report out a bill based on the report.

LD 826, *An Act to Eliminate the Opt-out Charges for Smart Meters* – [Carried Over](#).

This bill would prohibit a transmission and distribution utility from charging a customer a fee or a higher rate for declining the installation or removal of a wireless smart meter. If a customer declined the installation of a wireless smart meter, the utility could decrease the number of times the electromechanical meter is read, but would be required read the meter at least once every 12 months. The utility would be allowed to establish a rate collection method that is based upon the average electricity consumption of the customer.

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LD 885, *An Act to Remove Obsolete Provisions of the Electric Industry Restructuring Laws* – Public Laws 2013, [chapter 116](#).

This law amends the provisions of the electric industry restructuring laws to require electric utilities to issue bills that clearly separate the charges for generation services and the charges for transmission and distribution services when both types of services appear on the same bill. The law repeals the provisions that established the Consumer Education Fund and its funding mechanism and directs the Public Utilities Commission to transfer any remaining balance in the Consumer Education Fund to the General Fund; and repeals the provisions that require each investor-owned utility to prepare a plan for providing transition services and benefits to employees who were employed by the utility on January 1, 1998 and are laid off due to retail competition between March 1, 2000 and December 31, 2001.

LD 950, *An Act to Establish the Electromagnetic Field Safety Act*– [Carried Over](#).

This bill would require that, beginning October 1, 2013, all new transmission line and electrical installations capable of carrying 5,000 volts or more of electricity must be set back at least 300 feet from residential homes, residential care facilities, hospitals, schools, licensed day care facilities, playgrounds, youth centers, religious facilities, and youth camps.

LD 1085, *An Act to Establish the Renewable Energy Feed-In-Tariff* – [Carried Over](#).

This bill would require the Public Utilities Commission to establish a renewable energy resources feed-in tariff program to encourage the rapid and sustainable development of renewable energy resources and technology. The bill would require utilities to purchase renewably produced electricity from all qualified suppliers and would direct the Commission to set rates that electric utilities must pay for such power. The bill also would require utilities to enter into a standard contract with all renewable energy suppliers for a set term of not less than 20 years. The bill also outlines the Commission's management and oversight responsibilities for the program.

LD 1147, *An Act to Protect Maine's Scenic Character* – [Carried Over](#).

This bill was considered in committee but was ultimately carried over to the next legislative session. As introduced, this bill proposed a number of additional requirements for siting wind energy developments in order to create additional regulations to protect the viewsheds of certain areas of the State.

LD 1178, *An Act to Encourage the Use of Biofuels in the State* – Public Laws 2013, [chapter 124](#).

This new law requires sellers of biomass-based diesel blend or biodiesel to provide documentation of the amount of biofuel in the blended product at the time of sale. Under this law, the buyer of these blended products may rely on the information contained in the documentation and is relieved of liability arising from this reliance.

LD 1278, *An Act to Ensure Equitable Support for Long-Term Energy Contracts* – [Carried Over](#).

This bill would ensure that consumers of investor-owned transmission and distribution utilities in the State equitably share in the costs and direct benefits of long-term capacity resource contracts and community-based renewable energy projects. Under this bill, the eligible costs and benefits related to long-term contracts would be determined annually based on a forecast and reconciled the following year. The cost and benefit allocation mechanism would apply to existing long-term contracts and replace any other recovery mechanism currently in place.

LD 1323, *An Act Regarding Wind Power Siting in the Unorganized Territory* – [Carried Over](#).

This bill was considered in committee but was ultimately carried over to the next legislative session. As introduced, this bill would require the Maine Land Use Planning Commission to certify that the site is zoned for development.

LD 1434, *An Act to Clarify the Laws Governing Noise from Wind Turbines* – [Carried Over](#).

This bill was considered in committee but was ultimately carried over to the next legislative session. As introduced, this bill proposed requiring certain already permitted and constructed wind energy developments be subject to state sound level requirements retroactively.

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LD 1472, *An Act to Provide for Economic Development with Offshore Wind Power* – Public Laws 2013, [chapter 378](#).

This new law amends the “deep-water offshore wind energy pilot project” to include an offshore wind energy project located within the University of Maine offshore energy test site. Under this law, the Public Utilities Commission may not approve any long-term contract that would result in an increase in electric rates that is greater than \$1.45 per megawatt hour. This law also directs the Commission to conduct a second competitive solicitation of proposals for deep-water offshore wind energy projects, in which the University of Maine’s deep-water offshore wind energy pilot project must be considered. The law provides that additional proposals must be submitted by September 1, 2013 and that the Commission must make a decision on additional proposals by December 13, 2013.

LD 1517, *An Act to Amend the Laws Governing Decision-making Authority Regarding Energy Infrastructure Corridors* – Public Laws 2013, [chapter 360](#).

This new law amends the laws governing the Interagency Review Panel in four ways. It adds as members of the panel the Public Advocate and the Director of the Governor’s Office of Policy and Management within the Executive Department (or the director’s designee.) It requires a decision by the Panel regarding an energy infrastructure corridor proposal to be approved by the Governor before the State may enter into a binding contract with respect to the proposal. This law also specifies that payments for appraisal costs collected from potential developers of an energy infrastructure corridor may be expended for the costs of appraisal services and to pay member expenses. Finally, this law changes the date on which the section of the law governing energy infrastructure corridors is scheduled to be repealed from July 30, 2015 to July 30, 2017.

LD 1553, *An Act to Maintain Competition Among Electricity Suppliers Serving Northern Maine* – Public Laws 2013, [chapter 346](#).

This new law states that the limitation on how much electricity an affiliated competitive provider may sell within the service territory of the distribution utility with which it is affiliated does not apply to competitive electricity service or standard-offer service in the service territory or any portion of the service territory of a distribution utility that is located in an area administered by the independent system administrator for northern Maine, unless the Public Utilities Commission finds that the level of competitive electricity service and standard-offer service competition in the area administered by the independent system administrator for northern Maine is substantially similar to the level of competitive electricity service and standard-offer service competition in the area of the State that is within the New England independent system operator control area.

LD 1559, *An Act to Reduce Energy Costs, Increase Energy Efficiency, Promote Electric System Reliability and Protect the Environment* – Public Laws 2013, [chapter 369](#). **Governor’s veto overridden. This emergency law became effective on June 26.**

This law changes the structure of the assessment imposed by the Public Utilities Commission for electric and conservation programs. Under Part A of this law, the Commission is required to minimize the cost of energy and set rates to achieve economic efficiency. The law directs that the Maine Yankee litigation settlement funds be paid to the Efficiency Maine Trust and allocates Regional Greenhouse Gas Initiative (RGGI) proceeds to residential fuel switching, electric savings, and thermal savings for commercial and industrial facilities. Part B of this law authorizes the Public Utilities Commission to execute energy cost reduction contracts, not to exceed \$75,000,000 annually, to procure natural gas pipeline capacity. The Commission may also direct transmission and distribution utilities, natural gas utilities, and natural gas pipeline utilities to assess ratepayers for the cost of an energy cost reduction contract and the cost of the administration of the contract. The law also establishes the Energy Cost Reduction Trust Fund to hold energy cost-reduction contract revenues, to be held in trust to fund initiatives to reduce energy costs for ratepayers.

Part C of this new law prohibits the Public Utilities Commission from issuing a certificate of public convenience and necessity for the construction of a transmission line unless a description of the need for the proposed transmission line is provided, an analysis of non-transmission alternatives is conducted by an independent 3rd party, and the projected cost of the proposed transmission line is compared to the projected cost of feasible non-transmission alternatives. Preference must be given to low-cost alternatives with fewer greenhouse gas emissions. The Commission must make specific findings as to whether alternatives can address the identified

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need at a lower cost. Under this law, until December 31, 2015, when the Commission determines that the non-transmission alternatives can address the need at a lower total cost but represent a larger increased cost to ratepayers in the State than the proposed transmission line, the Commission must make reasonable efforts to achieve an agreement among the states within the New England independent system operator region to allocate the cost of non-transmission alternatives among the ratepayers of the region using an allocation method that results in lower increased cost to State ratepayers. Part C also requires that lower-voltage projects that are capable of operating at less than 69 kilovolts and projected to cost in excess of \$20,000,000 must be reviewed and approved by the Public Utilities Commission before erection of the transmission line.

Part D of this law amends the RGGI Act of 2007 to align Maine's carbon emissions budget with other RGGI states' budgets, adopts the RGGI deforestation offset, and directs the Department of Environmental Protection and Public Utilities Commission to develop incentives for consumers to reduce greenhouse gas emissions by switching fuels. Part E requires transmission and distribution utilities to give municipalities options to participate in the ownership and management of their own street lighting systems. Pursuant to Part F of this law, the Public Utilities Commission must consider economic efficiency when designing rates. Under Part G, the Commission is authorized to extend the number of customers who may participate in the pilot program for efficient electric heat pumps and extend the length of the pilot period. Part H of this law authorizes the Commission to issue a second solicitation for deep-water offshore wind projects if the original contract recipient does not move forward in development for any reason.

Gas

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LD 916, *An Act to Promote Investment in Maine's Communications Network and Natural Gas Network – Carried Over.*

This bill would provide sales tax exemptions for telecommunications equipment sold to a provider of telecommunications services and natural gas heating equipment sold to a business or residential consumer.

LD 1442, *An Act to Establish a Pilot Natural Gas District in Maine* – Private and Special Laws 2013, [chapter 17](#). **This emergency law became effective on June 29.**

This new law establishes the Kennebec Regional Gas District, which is created within the City of Waterville and the Town of Winslow and within up to four adjoining communities voting to be included within the district. The law states that the newly created pilot natural gas utility district is to be managed by a board of directors, composed of no more than seven directors, one each to be appointed by the Town of Winslow and each town that has voted to join the district, and two appointed by the City Council of Waterville. This law also provides for the appointment of a superintendent, directs the board of directors to conduct an annual report at the end of the fiscal year, and gives the districts all powers, rights, and privileges incidental or necessary to carry out the purpose of the Act.

LD 1559, *An Act to Reduce Energy Costs, Increase Energy Efficiency, Promote Electric System Reliability and Protect the Environment* – Public Laws 2013, [chapter 369](#). **Governor's veto overridden. This emergency law became effective on June 26.**

This law changes the structure of the assessment imposed by the Public Utilities Commission for electric and conservation programs. Under Part A of this law, the Commission is required to minimize the cost of energy and set rates to achieve economic efficiency. The law directs that the Maine Yankee litigation settlement funds be paid to the Efficiency Maine Trust, and allocates Regional Greenhouse Gas Initiative (RGGI) proceeds to fuel switching for residential customers, and to electric savings and thermal savings for commercial and industrial facilities. Part B of this law authorizes the Public Utilities Commission to execute energy cost reduction contracts, not to exceed \$75,000,000 annually, to procure natural gas pipeline capacity. The Commission may also direct transmission and distribution utilities, natural gas utilities, and natural gas pipeline utilities to assess ratepayers for the cost of an energy cost reduction contract and the cost of the

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administration of the contract. The law also establishes the Energy Cost Reduction Trust Fund to hold energy cost-reduction contract revenues, to be held in trust to fund initiatives to reduce energy costs for ratepayers.

Part C of this law prohibits the Public Utilities Commission from issuing a certificate of public convenience and necessity for the construction of a transmission line unless a description of the need for the proposed transmission line is provided, an analysis of non-transmission alternatives is conducted by an independent 3rd party, and the projected cost of the proposed transmission line is compared to the projected cost of feasible non-transmission alternatives. Preference must be given to low-cost alternatives with fewer greenhouse gas emissions. The Commission must make specific findings as to whether alternatives can address the identified need at a lower cost. Under this law, until December 31, 2015, when the Commission determines that the non-transmission alternatives can address the need at a lower total cost but represent a larger increased cost to ratepayers in the State than the proposed transmission line, the Commission must make reasonable efforts to achieve an agreement among the states within the New England independent system operator region to allocate the cost of non-transmission alternatives among the ratepayers of the region using an allocation method that results in lower increased cost to State ratepayers. Part C also requires that lower-voltage projects that are capable of operating at less than 69 kilovolts and projected to cost in excess of \$20,000,000 must be reviewed and approved by the Public Utilities Commission before erection of the transmission line.

Part D amends the RGGI Act of 2007 to align Maine's carbon emissions budget with other RGGI states' budgets, adopts the RGGI deforestation offset, and directs the Department of Environmental Protection and Public Utilities Commission to develop incentives for consumers to reduce greenhouse gas emissions by switching fuels. Part E requires transmission and distribution utilities to give municipalities options to participate in the ownership and management of their own street lighting systems. Pursuant to Part F, the Public Utilities Commission must consider economic efficiency when designing rates. Under Part G, the Commission is authorized to extend the number of customers who may participate in the pilot program for efficient electric heat pumps and extend the length of the pilot period. Part H authorizes the Commission to issue a second solicitation for deep-water offshore wind projects if the original contract recipient does not move forward in development for any reason.

Telecommunications

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LD 38, *Resolve, Regarding Legislative Review of Chapter 201: Provider of Last Resort Service Quality, a Major Substantive Rule of the Public Utilities Commission* – [Carried Over](#).

This resolve would provide for legislative review of the chapter 201: Provider of Last Resort Service Quality, a major substantive rule of the Public Utilities Commission. Chapter 201 establishes the service quality indicators and standards for providers of Provider of Last Resort service. It also describes the requirements and procedures governing Commission investigations regarding failures to meet the service quality standards and penalties, rebates, or rate reductions.

LD 196, *An Act Regarding the Implementation of the Quality Assurance Program for Public Safety Answering Points* – [Carried Over](#).

This bill would direct the Public Utilities Commission, Emergency Services Communication Bureau to implement the public safety answering point quality assurance program established in 2010 through third party vendors. The quality assurance program would audit and monitor compliance with emergency dispatching standards, practices, and procedures of public safety answering points. The Bureau would ensure that the financing of the program is accomplished with resources other than increased assessments to those municipalities subscribing to or providing the public safety answering point services.

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LD 275, Resolve, To Require the Emergency Services Communication Bureau to Expand the Existing Quality Assurance System – [Carried Over](#).

This resolve would direct the Public Utilities Commission, Emergency Services Communication Bureau to expand its quality assurance system to include fire and police call processing and dispatching. Under this resolve, the Bureau would be required to expand its medical dispatch structured protocol system to include equivalent fire and police protocols and to authorize necessary 9-1-1 funding.

LD 876, Resolve, To Establish a Working Group to Study Issues Relating to Broadband Infrastructure Development, Resolves 2013 - [chapter 28](#).

This resolve directs the ConnectME Authority to establish a working group to identify technical, legal, funding, and jurisdictional challenges to the deployment of broadband conduit for fiber-optic communications and to develop solutions necessary to achieve and facilitate the deployment of broadband infrastructure. The Authority must submit a written report of findings and recommendations to the Joint Standing Committee on Energy, Utilities and Technology and the Joint Standing Committee on Transportation by February 1, 2014. This resolve authorizes the Joint Standing Committee on Energy, Utilities and Technology and the Joint Standing Committee on Transportation to submit, either individually or jointly, to the Second Regular Session of the 126th Legislature a bill based on the findings of the report.

LD 916, An Act to Promote Investment in Maine's Communications Network and Natural Gas Network – [Carried Over](#).

This bill would provide sales tax exemptions for telecommunications equipment sold to a provider of telecommunications services and natural gas heating equipment sold to a business or residential consumer.

LD 1013, An Act to Create the Children's Wireless Protection Act – [Carried Over](#).

This bill would provide that a retailer may not sell at retail in this State a cellular telephone unless the cellular telephone and its packaging bear a warning label advising of the potential health risks associated with nonthermal effects of cellular telephone radiation. Under this bill, the manufacturer would be required to provide the warning labels to the retailer at no cost and the warning would be required to have language of the safety notification plainly visible. This bill also would require the retailer to provide an information bulletin to a purchaser of a cellular telephone informing the purchaser of the potential health risks associated with the use of cellular telephones.

LD 1243, An Act Regarding Next Generation 9-1-1 and Making Changes in Surcharge Remittance for Certain Telecommunications Service Providers – Public Laws 2013, [chapter 119](#).

This law expands the scope of "Enhanced 9-1-1 services" or "E-9-1-1" to include emerging communications technologies. Under this act, the E-9-1-1 surcharge remittance period changes from monthly to quarterly for local exchange telephone utilities, cellular, or wireless telecommunications service providers and interconnected voice over Internet protocol service providers whose average monthly surcharge remittance payment for the prior calendar year is less than \$5,000. This law also allows the Emergency Services Communication Bureau to expend funds on emerging communications technologies.

LD 1479, An Act to Clarify Telecommunication Regulation Reform – [Carried Over](#).

This bill, which has been carried over to the next legislative session, has been introduced in response to two reports submitted by the Public Utilities Commission to the Energy, Utilities and Technology Committee. This bill proposes clarifications to Maine's law regarding provider of last resort service and assessments paid by voice over internet protocol service providers.

Utilities

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LD 4, Resolve, Regarding Legislative Review of chapter 675: Infrastructure Surcharge and Capital Reserve Accounts, a Major Substantive Rule of the Public Utilities Commission - Resolves 2013, [chapter 9](#). **This emergency resolve became effective on April 16.**

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As part of its statutory obligation to review and approve major substantive rules of the Public Utilities Commission, the Legislature approved this new rule but, in doing so, directed the PUC to amend it in four respects: add language to section 4(A)(1) clarifying that the infrastructure surcharge may not result in an increase in revenue requirements greater than 3% of current revenue requirements; add language to section 4(A)(3) clarifying that the infrastructure surcharge may not result in an increase in revenue requirements greater than 7.5% of the current revenue requirements; change language in section 4(B)(2) to provide that the amount of the utility's revenue requirement attributed to fund a capital reserve account may not exceed the percentages listed in that paragraph; and add language to section 6(A)(1)(b)(i) to include, when calculating a rate of return for an investor-owned water utility, the option of allowing the investor-owned water utility, the Public Utilities Commission's advisory staff, and the Office of the Public Advocate to agree in advance of the filing of the infrastructure surcharge request on the current cost of debt and the return on equity and capital structure to be used.

LD 303, *An Act to Authorize the Public Advocate to Publish and Distribute Consumer Information* - Public Laws 2013, [chapter 79](#).

Under this law, the Public Advocate may publish in print or electronic format, or both, information for consumers related to regulated and unregulated services provided by public utilities and unregulated services provided by any telecommunications, electricity delivery or supply, or gas delivery or supply entity.

LD 441, *Resolve, Directing the Public Utilities Commission to Develop a Plan to Reform Regulation of Consumer-owned Water Utilities*, Resolves 2013, [chapter 47](#).

This resolve directs the Public Utilities Commission to develop a plan to reform water regulation and report to the Joint Standing Committee on Energy, Utilities and Technology by January 31, 2014. The report must describe necessary changes to the law, rules, or procedures and any other necessary actions to implement the plan. The Commission shall also include with the report a draft of any legislation and changes to rules necessary to implement the plan. The resolve also directs the Commission to seek to process any filings submitted by water utilities for exemptions under the laws governing utilities with as much deliberate speed as possible, within the constraints of existing resources.

LD 965, *An Act to Improve Maine's Underground Facility Damage Prevention Program* - [Carried Over](#).

This bill establishes the Dig Safe Advisory Board to be made up of 13 persons appointed by the Governor and an employee of the Department of Transportation and an employee of the Public Utilities Commission. The Dig Safe Advisory Board will collaborate with the Public Utilities Commission for the purpose of improving the protection of underground facilities. The bill also requires that owners of underground facilities who are not members of the underground facilities damage prevention system register their facilities with the Commission and provide the Commission with current 24-hour contact information for purposes of notification regarding excavations.

LD 927, *An Act to Further Energy Independence for the State* - Public Laws 2013, [chapter 415](#).

This new law consolidates legislative reporting requirements of the Governor's Energy Office so that the Office's primary reporting requirements are its annual report and its biennial update to the comprehensive state energy plan, which will include specific information regarding wind energy development under this law. Also included in this new law is funding for an employee of the Department of Environmental Protection to provide consultation to the Governor's Energy Office regarding greenhouse gas reduction goals and wind energy development issues.

Environmental & Natural Resources

Despite a power shift and subsequent leadership change at the start of the 2013 legislative session, no single environmental issue dominated the discussion as some issues have in years past. However, this session produced a number of notable developments. Land use was one area of law that saw some significant action. For example, the Site Location of Development Law (the "Site Law") was amended to exempt certain construction and modifications at developments that are already permitted under the Site Law. In addition, the Legislature clarified an exemption to the Municipal Subdivision laws by specifying that any transfer to an abutter is exempt from those laws. On the wildlife front, elvers received heightened attention due to their increasing commercial value. Renewable energy made yet another appearance this session, although a bill to reinstate the solar and wind energy rebate program was carried over to the 2014 legislative session. This is just a sample of 2013 legislative developments in environmental and renewable energy areas. All legislation of note are summarized throughout this section.

If you have a question about any of the new laws summarized in the Environmental, Land Use, and 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](#): [John D. Delahanty](#) - 207.791.1222; [Andrea C. Maker](#) - 207.629.5928; [Avery T. Day](#) - 207.791.1157.

Agriculture

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LD 287, *An Act to Improve Funding of Agricultural Development Projects* – Public Laws 2013, [chapter 64](#).

This new law makes three changes to the process for funding agricultural development projects. First, applications for competitive grants may only be submitted in response to a request for proposals and the Commissioner may now contract directly with individuals, firms or organizations for special projects. Second, applicants will now be required to self-fund some percentage of the total project cost, down from a former minimum of 25%, and the 10% minimum from public sources will be reduced to merely any percentage. Third, a single grant may now be as much as 50% of the total funds to be granted in a single year, up from a former maximum of 20%.

LD 718, *An Act to Protect Maine Food Consumers' Right to Know about Genetically Engineered Food* – [Enacted and Pending Governor's Action](#).

This bill is one of about twenty bills that were sent to the Governor just before the session adjourned sine die on July 10, 2013, allowing the Governor to hold this bill until the Legislature reconvenes. The Governor has indicated that he will sign this bill when the Legislature reconvenes in January of 2014. This bill would require that any food offered for retail sale that is genetically engineered be labeled as such and prohibit genetically engineered food from being identified as "natural." Violations of this labeling requirement would be a fine up to \$1,000 per day per misbranded product per sales location. This bill also provides that it will not take effect until similar labeling laws are adopted in at least five contiguous states including Maine. This bill proposes repeal of this law if at least five contiguous states do not adopt similar laws by January 1, 2018.

LD 987, *An Act to Make Technical Changes to the Agriculture, Conservation and Forestry Laws* – Public Laws 2013, [chapter 256](#).

This law makes a variety of changes to the Agriculture, Conservation and Forestry Laws. The law: (1) requires that certain information in annual reports to the Legislature be compiled from data from the previous fiscal year rather than from the previous calendar year, consistent with the State's budgeting process; (2) clarifies

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that the Department of Agriculture, Conservation and Forestry, Division of Forestry regulates water crossings by land management roads in those portions of unorganized and de-organized areas of the State zoned by the Maine Land Use Planning Commission as protection districts and management districts; (3) makes references to boards of county commissioners as consistent in provisions regarding the Maine Land Use Planning Commission; (4) clarifies that appointments made by the boards of county commissioners will be reviewed according to the same process as applies to gubernatorial appointments and changes language regarding appointments made by the county commissioners and Governor to comport with language in the Constitution of Maine; (5) adds unallocated language indicating that the terms of the members of the Maine Land Use Planning Commission appointed after January 2013 must be staggered; and (6) makes corrections by updating the name of the Department of Agriculture, Conservation and Forestry to the enabling legislation of the Wells National Estuarine Research Reserve Management Authority and replacing the director of the former State Planning Office with the Director of the Maine Coastal Program as an ex officio nonvoting member of the board of directors.

Air Quality and Boilers

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LD 414, *An Act to Restructure the Licensing and Regulation of Boilers and Pressure Vessels and Elevators and Tramways* – Public Laws 2013, [chapter 70](#).

In addition to a number of more minor changes, this new law eliminates both the Board of Boilers and Pressure Vessels and the Board of Elevator and Tramway Safety, and gives the Director of the Office of Professional and Occupational Regulation primary authority to regulate boilers, pressure vessels, elevators, and tramways. The bill also revises the procedure for the issuance of boiler inspector licenses by requiring that licenses be issued individually, as opposed to being issued on a company-wide basis.

Building Codes

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LD 175, *An Act to Update the Laws Governing Energy Efficiency Building Performance Standards* – Public Laws 2013, [chapter 120](#).

This new law directs the Public Utilities Commission to repeal rules that established the standards that comprised the Maine Model Building Energy Code. Energy efficiency building performance standards are now controlled by the Maine Uniform Building and Energy Code.

LD 1348, *An Act to Encourage School Administrative Units to Increase their Energy Savings* – Public Laws 2013, [chapter 366](#).

This new law establishes the school energy savings program that permits the Efficiency Maine Trust to partner with schools in order to achieve energy savings.

Chemical Control and Products

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LD 373, *An Act to Provide Clarity to Priority Chemical Reporting Requirements* – Public Laws 2013, [chapter 232](#).

This new law requires manufacturers or distributors of children’s products that contain a priority chemical, as identified in section 1694, to give written notice to the Department of Environmental Protection. This notice must be given within 180 days after a priority chemical is identified. However, if the sale of the product containing the priority chemical does not begin until after the initial 180-day reporting period ends, then written notice must be given within 30 days of sale of the product.

LD 902, *Resolve, Regarding Legislative Review of Portions of chapter 882: Designation of Bisphenol A as a Priority Chemical and Regulation of Bisphenol A in Children’s Products, a Major Substantive Rule of the Department of Environmental Protection* – Resolves 2013, [chapter 44](#). **This emergency resolve became effective on June 4.**

This resolve authorizes the final adoption of portions of chapter 882 (description is in title above), a provisionally adopted major substantive rule of the Department of Environmental Protection. The rule amends chapter 882 to (1) add a definition of “toddler food”; (2) extend the existing prohibition on the sale of children’s products containing Bisphenol A (BPA) to include containers of infant food and baby formula and, effective January 1, 2014, containers of toddler food; and (3) specify that BPA is intentionally added to a product or product packaging whenever a component of that product or product packaging is made from polycarbonate plastic or epoxy resin containing BPA.

LD 903, *An Act to Enhance the Development and Implementation of Integrated Pest Management Programs* – Public Laws 2013, [chapter 290](#).

This new law increases the annual registration fee for pesticides from \$150 to \$165 effective January 1, 2014. The bill requires that the additional funds raised from the increase in the registration fees for pesticides are to be deposited in an account of the University of Maine Cooperative Extension and may be used only for integrated pest management programs established and administered by the University of Maine Cooperative Extension with advice from the Integrated Pest Management Council. It also requires that 10% of the fee increase be used for competitive grants for integrated pest management projects by the faculty and staff at the University of Maine.

LD 1340, *An Act to Ensure Maine’s Preparedness for Hazardous Oil Spills* – Public Laws 2013, [chapter 349](#).

This legislation amends the laws governing the Maine Coastal and Inland Surface Oil Clean-Up Fund to (1) require a person transporting crude oil by rail or highway to pay an assessment of 3 cents per barrel of crude oil being transported (currently, the assessment is imposed only on a person transporting refined oil); and (2) impose a surcharge of up to 50% of the assessment if the balance in the fund is reduced to \$2,000,000 or less. The surcharge will remain in place until the balance in the fund reaches \$5,000,000.

LD 1430, *An Act to Clarify the Permitted Use of Aquatic Pesticides* – Public Laws 2013, [chapter 193](#).

This new law allows the Department of Environmental Protection to issue permits for certain discharges of pesticides to Class AA, A, SA and GPA waters, tributaries of Class GPA waters and waters having a drainage area of less than 10 square miles where, with limited exceptions, discharges are currently prohibited. The discharges of pesticides that may be approved under this law are discharges that are unintended and an incidental result of the spraying of pesticides.

LD 1567, *Resolve, Regarding Legislative Review of Portions of Chapter 22: Standards for Outdoor Application of Pesticides by Powered Equipment in Order to Minimize Off-Target Deposition, a Late-filed Major Substantive Rule of the Department of Agriculture, Conservation and Forestry* – [Carried Over](#).

This resolve provides for legislative review of chapter 22: Standards for Outdoor Application of Pesticides by Powered Equipment in Order to Minimize Off-Target Deposition. The resolve, proposed as an emergency measure to take effect when enacted, has been carried over to the 2014 legislative session.

LD 1569, *Resolve, Regarding Legislative Review of Portions of Chapter 51: Notice of Aerial Pesticide Application, a Late-filed Major Substantive Rule of the Department of Agriculture, Conservation and Forestry* – [Carried Over](#).

This resolve provides for legislative review of portions of chapter 51: Notice of Aerial Pesticide Application. This resolve has been carried over to the 2014 legislative session. The resolve, proposed as an emergency measure to take effect when enacted, has been carried over to the 2014 legislative session.

Environmental Enforcement and Liability

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LD 453, *An Act to Prohibit the Sale of Gasoline That Contains Corn-based Ethanol as an Additive at a Level Greater than 10 Percent by Volume* – Public Laws 2013, [chapter 69](#).

When triggered, this new law will prohibit the sale of gasoline that contains corn-based ethanol as an additive at a level greater than 10% by volume. This prohibition will not go into effect until at least two of the six New England states in addition to Maine have enacted the same prohibition.

LD 833, *An Act to Allow Municipalities to Place Liens for Failure to Pay Storm Water Assessments* – Public Laws 2013, [chapter 197](#).

This new law allows municipalities to place liens on real estate for delinquent storm water disposal system accounts in the same manner as municipalities are presently allowed for delinquent sewer and sewer disposal system accounts.

Environmental Permitting and Land Use

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LD 37, *Resolve, Regarding Legislative Review of Portions of chapter 4: Rules of Practice, a Major Substantive Rule of the Department of Agriculture, Conservation and Forestry* – Resolves 2013, [chapter 33](#). **This emergency resolve became effective on May 29.**

This resolve authorizes the final adoption of Land Use Planning Commission chapter 4: Rules of Practice. The [rule](#) establishes a certification process for Site Location of Development Permits to be issued by DEP. Given its emergency status, this resolve (and hence, the rule) took effect immediately upon its approval.

LD 289, *An Act to Eliminate the Requirement That the Department of Agriculture, Conservation and Forestry Provide Technical Services for Direct-Marketing Agricultural Products* – Public Laws 2013, [chapter 65](#).

This new law eliminates the duty of the Department of Agriculture, Conservation and Forestry to provide farmers or groups of farmers with technical assistance in such areas as lease and contract negotiation.

LD 331, *Resolve, To Expand Economic Development in the Town of Orrington by Releasing Certain Riverfront Land from State-imposed Environmental Restrictions* – [Carried Over](#).

This resolve would direct the Department of Environmental Protection to release all DEP-imposed development restrictions on certain portions of the former HoltraChem Manufacturing Company site that are not targeted for cleanup and remediation under DEP clean-up orders.

LD 437, *An Act to Amend the State General Permit Process for Tidal Power to Remove a Conflict with a Federal Permit Requirement* – Public Laws 2013, [chapter 177](#).

This new law allows the Department of Environmental Protection to accept a permit application for a tidal energy demonstration project prior to issuance by the Federal Energy Regulatory Commission (FERC) of a finding of no significant environmental impact. If the DEP determines that any permit requirements have not been met, the law requires the DEP to so notify an applicant in writing within 60 days after the DEP's acceptance of an application as complete for processing, or within 30 days after FERC's issuance of a finding of no significant environmental impact, whichever occurs later.

LD 470, *An Act Regarding Working Waterfront Projects* – Public Laws 2013, [chapter 231](#).

This new law defines "working waterfront activity" and "working waterfront land" for the purpose of exempting working waterfront activities from certain provisions under the Natural Resources Protection Act. The law makes vegetation removal provisions more consistent, particularly in a general development or commercial fisheries/maritime activities district. Finally, the law specifies that vegetation removal standards will not apply to remediation activities for cleaning up contamination in a general development or commercial fisheries/maritime activities district.

LD 596, *An Act to Help Small Businesses and Promote Tourism by Allowing the Construction of a Platform, Walkway or Deck over a River or Marshland* – Public Laws 2013, [chapter 140](#).

This law provides that construction of a platform, walkway or deck over a river or marshland may be exempt from the Department of Environmental Protection's rules relative to significant wildlife habitat. In order for such an exemption to apply, the following two requirements must be satisfied: (1) the affected municipal government must find that the platform, walkway or deck would not affect any significant wildlife habitat and (2) the project must be approved by local referendum.

LD 695, *An Act to Amend the Site Location of Development Laws* – Public Laws 2013, [chapter 183](#).

This law amends the Site Location of Development Law (the "Site Law") to exempt new construction at, or modification of, an existing development that is already permitted under the Site Law. This exemption will apply as long as (1) the additional disturbed area not to be re-vegetated does not exceed 10,000 square feet of ground area in any calendar year and does not exceed 20,000 square feet of ground area in total; and (2) the construction or modification does not involve a division of the parcel of land. Permittees will need to annually notify the Department of Environmental Protection of any new construction or modification that is undertaken using this exemption, and provide plans, certified by a professional engineer, for such construction or modification. As with similar exemptions for manufacturing facilities, campuses, and ski areas, permittees will have to seek advance approval prior to exceeding the 10,000 or 20,000 square foot thresholds, at which point the Department will review all development previously undertaken pursuant to the exemption.

LD 794, *An Act to Amend Setback Requirements and Standards Related to Species Migration under the Laws Regulating Development near Vernal Pools* – [Carried Over](#).

This bill proposes to amend the laws regulating significant vernal pool habitat to account for species migration patterns. The proposal would apparently change the area that is regulated around the vernal pool depression to implement a concept that is often referred to as a "directional buffer" to account for how the species of concern might move through the habitat surrounding the depression itself. This bill has been carried over to the 2014 legislative session, and therefore is still in concept form only.

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LD 857, *An Act to Examine Fees Charged by Municipalities Concerning Outdoor Related Activities* – Public Laws 2013, [chapter 199](#).

This new law provides that municipalities, in addition to being prohibited from regulating such activities, may not enact any ordinance, law or rule which charges a fee for the following activities: (1) hunting, trapping or fishing for any species of fish or wildlife; (2) the possession or use of any equipment expressly permitted for use in hunting under this section; (3) the operation, registration or numbering of all-terrain vehicles, watercraft or snowmobiles or any other subject matter relating to all-terrain vehicles, watercraft or snowmobiles. The law also provides that a municipality may not adopt or enforce any ordinance prohibited under Title 12, section 13201.

LD 966, *An Act to Clarify an Exemption to the Municipal Subdivision Laws* – Public Laws 2013, [chapter 126](#).

This law clarifies an exemption to the Municipal Subdivision Law, which applies to transactions that result in the division of a parcel into three or more lots within a five-year period. The law makes clear that any transfer to an abutter is exempt under the Municipal Subdivision Law, whether or not that transfer creates a new lot. This exemption does not apply, however, if real estate otherwise exempt under this provision is transferred without all of the merged land to another person within five years.

LD 1204, *An Act to Clarify the Appeal Process of Code Enforcement Officers and Boards of Appeal* – Public Laws 2013, [chapter 144](#).

Enacted in response to recent case law holding that a board of appeals had no jurisdiction to hear an appeal of a code enforcement officer's decision not to take enforcement action, this law provides that, with certain exceptions, any notice of violation or any enforcement order by a code enforcement officer under a land use ordinance is reviewable on appeal by a municipality's board of appeals and, in turn, by the Superior Court under Maine Rule of Civil Procedure 80B. An exception to this rule will only arise if a municipality's charter or ordinance expressly provides that certain decisions of its code enforcement officer or board of appeals may not be appealed.

LD 1490, *An Act to Amend the Mandatory Shoreland Zoning Laws* – Public Laws 2013, [chapter 320](#).

This new law makes a number of changes to the laws governing mandatory shoreland zoning. These changes include (1) adding definitions of "agriculture" and "footprint" and changing other definitions; (2) changing the laws regulating the circumstances under which nonconforming structures in the shoreland zone may be expanded; (3) amending the standards governing clearing of vegetation to create consistency between the statutory provisions and rules and providing an exemption from certain standards for remediation activities in specific shoreland zoning districts; (4) exempting a person or firm engaged in agriculture or timber harvesting (if best management practices for erosion and sedimentation control are used) and government employees engaged in projects associated with their employment from certain provisions of law governing excavation activity in a shoreland zone; and (5) eliminating the requirement that a code enforcement officer report essential transactions to the Department of Environmental Protection.

LD 1528, *Resolve, To Provide for Livable, Affordable Neighborhoods* – [Carried Over](#).

This carried over bill proposes to develop guidelines for livable, affordable neighborhoods. As introduced, this resolve directs the Department of Transportation to develop recommendations for roadway projects in urban areas that emphasize walkable communities. It also directs the Department of Agriculture, Conservation and Forestry to develop models designed to encourage productive use of rural lands while providing opportunities for resource-based industries to thrive, and conversely, to develop a model for compact village development to promote high residential density with mixed land uses.

LD 1565, *An Act to Preserve Code Enforcement Officer Training and Certification* – [Carried Over](#).

This bill, which has been carried over to the next legislative session, proposes reassigning the responsibility of code enforcement officer training and certification. During the previous Legislature, the State Planning Office was dismantled and this responsibility was transferred to the Department of Economic and Community Development. This bill proposes shifting this responsibility to the Department of Environmental Protection. This bill also proposes amending current law regarding the funding of this training so that training takes place regardless of the availability of surcharges to fund training.

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Forestry

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LD 59, *An Act Relating to the Unlawful Cutting of Trees* – Public Laws 2013, [chapter 412](#).

This new law requires persons who have committed more than one violation of state laws regarding the unlawful cutting of trees to obtain bonding and to seek approval from the Department of Agriculture, Conservation and Forestry before beginning any further tree harvesting. This law also creates a new Class D crime of knowingly engaging in the unlawful cutting of trees.

LD 290, *An Act to Eliminate the Forest Certification Incentive Cost-share Fund* - Public Laws 2013, [chapter 11](#).

This law eliminates the Forest Certification Incentive Cost-share Fund.

LD 284, *An Act to Amend the Duties of the Division of Forestry* - Public Laws 2013, [chapter 18](#).

This new law increases the duties of the Division of Forestry. In addition to its prior existing responsibilities, the Division will now be tasked with conducting a landowner relations program to assist landowners in dealing with public use of private lands.

LD 286, *An Act to Reduce Reporting Responsibilities of the Department of Agriculture, Conservation, and Forestry* - Public Laws 2013, [chapter 29](#).

This law reduces the reporting responsibilities of the Department by removing the Department's obligation to report to the joint standing committee of the legislature having jurisdiction over agricultural matters on information relating to the implementation of chapter 8-B (agriculture internship and training). This report had been required no later than March 1st of each odd numbered year.

LD 457, *An Act to Eliminate Certain Data Collection Requirements of the Forest Health and Monitoring Program of the Division of Forestry* - Public Laws 2013, [chapter 37](#).

This law eliminates the Division of Forestry's duty to maintain data that is sufficient to determine the results of compliance with or failure to comply with the Division's recommendations on forest insect or disease problems.

LD 714, *An Act to Clarify the Laws Governing the Rule-making Authority of the Maine Forest Service* - Public Laws 2013, [chapter 196](#).

This new law amends the rule-making authority of the Maine Forest Service when dealing with introduced forest insects or diseases. Prior to this law, the Agency had the authority to destroy or order the destruction of trees infested with a plant pathogen or insect that is the subject of quarantine. With this bill, the Agency will also have the authority to develop rules to destroy or order the destruction or other mitigation of nearby trees that are likely to become infested, in order to control the spread of the outbreak.

LD 1051, *An Act to Clarify the Authority and Responsibility of Forest Rangers* – Public Laws 2013, [chapter 130](#).

This new law provides a number of clarifications regarding the duties of forest rangers. First, the law makes clear that forest rangers are responsible for addressing all wildfires, and not just forest fires. Second, it adds to the rangers' responsibilities the duty to enforce Title 36, chapter 701 relating to blueberries. Finally, this law adds clarification by laying out definitions for the following terms: "escaped prescribed fire," "escaped wildland fire use," "prescribed fire," "wildfire," "wildland" and "wildland fire use."

Historic Preservation

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LD 160, *An Act to Amend the Laws Pertaining to Archaeological Sites* – Public Laws 2013, [chapter 89](#).

The two primary changes made by this law are (1) a requirement for both the Maine Historic Preservation Commission and the State Museum to consult with federally recognized Indian tribes in Maine concerning adequate and appropriate duration of archaeological materials excavated from protected sites and (2) a directive to the directors of the Maine Historic Preservation Commission and the State Museum to establish procedures for reviewing, at least once every ten years, site and protected information designated as confidential in order to determine whether continued confidentiality is necessary.

Mining and Natural Resources

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(Not Enacted) LD 1302, *An Act to Amend the Maine Metallic Mineral Mining Act to Protect Water Quality*.

As originally drafted, this bill would have made the following changes to the Maine Metallic Mineral Mining Act:

- First, the bill would have prohibited the Department of Environmental Protection from issuing a permit for surface or open pit mining in a sulfide ore body unless the applicant had previously operated a mining operation that met certain conditions.
- Second, the bill would have amended the approval criteria related to water quality by requiring that discharges of pollutants from a mining operation not violate applicable water quality standards, even within the mining area.
- Third, the bill would have prohibited the issuance of a permit if the mining operation were found to result in contamination of groundwater or surface water, even within the mining area, and if this contamination were found to require treatment beyond ten years after the end of the mining operations.
- Fourth, the bill would have imposed stricter standards for the monitoring of groundwater.
- Fifth, the bill would have required that financial assurance be fulfilled through the creation of a trust fund.

Various amended versions of the original LD were considered by both the House and Senate, but ultimately no version of this bill was adopted.

Renewable Energy

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LD 616, *An Act to Amend the Expedited Permitting Area for Wind Energy Development under the Jurisdiction of the Maine Land Use Planning Commission* – [Carried Over](#).

This bill proposes to amend Public Law 2007, chapter 661, to remove Carrying Place Township, Concord Township, Highland Plantation, Lexington Township and Pleasant Ridge Plantation from the expedited permitting area for the purposes of that Act and directs the Maine Land Use Planning Commission to amend its rules accordingly. This bill has been carried over to the 2014 legislative session.

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LD 1178, *An Act to Encourage the Use of Biofuels in the State* – Public Laws 2013, [chapter 124](#).

This new law requires any person that sells a biomass-based diesel blend or biodiesel blend to prepare a document that will serve as a record of the transfer. This document must be maintained by the preparer for at least four months. A buyer will not be liable for failing to verify the accuracy of the information in the prepared document. This bill will help purchasers comply with their air licenses and emissions calculations, among other potential benefits.

LD 1252, *Act to Improve Maine's Economy and Energy Security with Solar and Wind Energy* - [Carried Over](#).

This bill would reinstate the solar and wind energy rebate program to provide rebates for the purchase of certain solar and wind energy equipment until June 30, 2018. The program had expired December 31, 2010. This bill would also increase the limit on the total amount of renewable capacity allowed under the community-based renewable energy pilot program from 50 megawatts to 60 megawatts and would require the Public Utilities Commission to reserve 10 megawatts in that program for solar-powered generating systems. The bill would also increase the limit on the contract price the Commission may authorize for eligible solar-power generation, and would index the price limit to the Consumer Price Index. The repeal date for the Community-based Renewable Energy Act would be extended from December 31, 2015, to December 31, 2017. Finally, the bill would have required the Commission to submit to the Legislature by January 15, 2014, a report on options for establishing a solar carve-out, or solar set-aside, for an amount of energy that must be solar, within the State's renewable portfolio standard. This bill has been carried over to the 2014 Legislative Session.

LD 1323, *An Act Regarding Wind Power Siting in the Unorganized Territory* – Public Laws 2013, [Carried Over](#).

This bill would require Maine Land Use Planning Commission (LUPC) certification before any Department of Environmental Protection approval of a grid scale wind energy development in the unorganized or de-organized area of the State. Under the bill, LUPC would be required to certify that the area where the development will be located has been zoned for planned development. The bill would also remove a legislative finding regarding wind energy development in the unorganized and de-organized parts of the State. This bill has been carried over to the 2014 Legislative Session.

LD 1434, *An Act to Clarify the Laws Governing Noise From Wind Turbines* – [Carried Over](#).

This bill would require unregulated energy developments that buy and sell electricity to meet the same sound level standards that must be met by wind energy developments permitted under the Maine Revised Statutes, Title 38, chapter 3, subchapter 1, article 6. The bill has been carried over to the 2014 legislative session.

Waste and Recycling

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LD 141, *Resolve, Directing the Department of Environmental Protection to Develop Quantitative Odor Management Standards* – Resolves 2013, [chapter 43](#).

This resolve directs the Department of Environmental Protection to adopt rules that incorporate quantitative odor management standards for (1) facilities that process wastewater treatment sludge from publicly owned treatment works and (2) facilities that process septage. Rules adopted pursuant to this resolve will be routine technical rules.

LD 694, *An Act to Clarify Solid Waste Policy* - Public Laws 2013, [chapter 243](#).

This new law amends the declaration of policy in the laws governing waste management to provide that the Legislature finds that the highest and best use of a state-owned solid waste facility is for those permitted special wastes that cannot be handled by waste reduction, reuse and recycling, which are the preferred

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methods of waste management. The law also provides that a change in the type or volume of waste accepted by a facility requires approval by the Department of Environmental Protection and a public benefit determination.

LD 1009, *An Act Concerning Fertilizer and Lime Products* – Public Laws 2013, [chapter 204](#). This emergency law became effective on June 5.

This new law adds the definitions of “biosolids,” “packaged biosolids” and “unpackaged biosolids” to the Maine Commercial Fertilizer Law. The law also amends the definition of “commercial fertilizer” to mean a substance containing one or more recognized fertilizer materials bearing a guaranteed analysis on the product label of a packaged product. Finally, the law exempts unpackaged biosolids and packaged biosolids derived primarily from residuals regulated by the Department of Environmental Protection from being registered before being offered for sale and from the tonnage report.

LD 1335, *An Act to Implement Recommendations of the Department of Environmental Protection Concerning Product Stewardship in Maine* – Public Laws 2013, [chapter 315](#).

This new law was passed to further Maine’s policy of promoting product stewardship to support the State’s solid waste management hierarchy. The law establishes a framework for the implementation of product stewardship programs, and updates the requirements for those programs. In addition, the law repeals the requirement that retailers that sell cellular telephones accept used cellular telephones from any person.

LD 1363, *Resolve, to Ensure Landfill Capacity and Promote Recycling* – Resolves 2013, [chapter 46](#).

This resolve provides that the Department of Environmental Protection may not issue a license to expand a solid waste disposal facility that is a landfill until after April 30, 2014.

LD 1483, *An Act to Promote and Enhance State Policy to Preserve and Support Existing Methods of Disposal of Municipal Solid Waste* – [Carried Over](#).

The purpose of this proposed bill is to stabilize the statutorily established solid waste management hierarchy, to promote and strengthen the waste management system in the State and to enhance the continued operation of the existing waste processing incineration facilities located in the State. The bill would direct the Department of Environmental Protection to: (1) impose on each licensed landfill a solid waste stabilization assessment on all solid waste, including, but not limited to, household and commercially-sourced solid waste and all other material deposited at the licensed landfill; (2) deposit solid waste stabilization assessment funds in a solid waste stabilization account within the Maine Solid Waste Management Fund; (3) disburse the funds from the solid waste stabilization account through periodic payments to qualified municipalities and recycling and composting programs located in the State; and (4) develop a process to maximize the use of existing incineration facilities in the State and increase the amount of Maine-sourced solid waste that is processed at those facilities annually and report its recommendations to the Joint Standing Committee on Energy, Utilities and Technology by January 1, 2014. This bill has been carried over to the 2014 legislative session.

Water

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LD 642, *An Act to Exempt All-terrain Vehicle Trail Management from Storm Water Management Requirements* – Public Laws 2013, [chapter 43](#).

This law exempts all-terrain vehicle trails from § 420-D’s storm water management provisions provided that a trail meets certain conditions. An all-terrain vehicle trail will be exempt if that trail: (1) is constructed and maintained in accordance with the Department of Agriculture’s established best practices; (2) is the minimum feasible width for its designated use; and (3) contains no lane that exceeds twelve feet in width and no trail that includes more than 2 lanes.

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Wildlife and Fisheries Management

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LD 26, *An Act to Authorize the Commissioner of Inland Fisheries and Wildlife to Change a Fishing Season Opening Date Statewide* - Public Laws 2013, [chapter 3](#).

Open-water fishing season on boundary waters between Maine and New Brunswick is established by statute to be April 15 to September 30 of each year. This new law gives the Commissioner of Inland Fisheries and Wildlife the authority to change the opening date of an open season if, in the commissioner's opinion, the change is necessary due to earlier than normal seasonal temperature changes or weather conditions.

LD 72, *An Act to Open the St. Croix River to River Herring* – Public Laws 2013, [chapter 47](#). **This emergency law became effective on April 23.**

This emergency law required the Commissioner of Inland Fisheries and Wildlife to ensure, by May 1, 2013, that the fishways on both the Woodland Dam and the Grand Falls Dam are configured or operated in a manner that allows the unconstrained passage of river herring. Previously, the statute only required the fish ways on the Woodland Dam to allow passage of river herring, and even then the statute did not require unconstrained passage. Given its emergency status, the law went into effect immediately upon passage.

LD 128, *An Act to Abolish the Inland Fisheries and Wildlife Advisory Council* – Public Laws 2013, [chapter 375](#). This new law abolishes the Inland Fisheries and Wildlife Advisory Council.

LD 153, *An Act to Establish a Comprehensive Hunting and Fishing License* – [Carried Over](#).

This bill proposes to replace the former "Super Pack" Hunting License with a new Comprehensive License. The Comprehensive License would include all licenses and permits to hunt and fish all legal game and fish species during any open season on that species. The Comprehensive License would also include entry into the moose and antlerless deer lotteries. The Comprehensive License would differ from the Super Pack License in that: (1) the holder would not be allowed to take more deer than is permitted for other hunting license holders; (2) the license would not include an antlerless deer permit for use in wildlife management districts in which 3,500 such permits are issued; (3) the resident fee for the license would be \$35 instead of \$200; (4) the license would be available to nonresidents and aliens for a fee of \$125; and (5) there would be no license fee category for a person who holds 2 or more lifetime licenses. This bill has been carried over to the 2014 legislative session.

LD 451, *An Act Relating to Certain Marine Resources Licenses* – Public Laws 2013, [chapter 8](#). **This emergency law became effective on March 21.**

In addition to imposing a few new minor universal restrictions, this law places new restrictions on certain Indian tribes regarding the issuance of marine resources licenses.

Houlton Band of Maliseet Indians: A member of the Band who is issued a tribal license is now subject to all laws and rules applicable to a person who holds an elver fishing license issued under § 6505-A, and to all provisions of chapter 625. The Band is also now restricted from issuing more than eight licenses that allow the taking of elvers with an elver fyke net only, and from issuing more than eight licenses that allow the taking of elvers with a dip net only.

The Passamaquoddy Tribe: The Tribe is now prohibited from issuing more than 20 commercial licenses for the taking of scallops in any calendar year, unless the Commissioner of Marine Resources determines that scallop resources are sufficient to permit additional licenses. The Tribe also may not issue to its members licenses for the taking of elvers that exceed specified limits.

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LD 482, *An Act to Improve the Quality of the Data Used in the Management of Maine's Fisheries* – Public Laws 2013, [chapter 282](#).

This new law makes a number of changes, related to reporting requirements, to different aspects of the Department of Marine Resources landings program. First, the law allows the Commissioner of Marine Resources to share confidential landings data with the Department of Marine Resources, Bureau of Maine Patrol, when necessary for reporting enforcement purposes. Second, it requires majority shareholders in corporate entities to identify themselves so that non-compliant wholesale and retail license holders will not be able to incorporate under a new business name and continue operating without remedying their non-compliance. Third, it authorizes the Commissioner to suspend licenses for non-compliance with reporting requirements in order to ensure effective catch monitoring and assess an administrative fee if licenses are suspended. Fourth, the law prevents unlicensed crew members on lobster or crab fishing boats and scallop and sea urchin diving tenders from selling any catch and limits selling to certain licensed harvesters. Fifth, it expands the seaweed buyer's license to include anyone buying seaweed for resale and removes the ability of marine worm and wholesale seafood dealers to harvest seaweed without a license. Finally, the law expands the requirement to hold a retail license for the sale of all marine organisms instead of just lobster, crayfish and shell stock.

LD 542, *An Act to Remove the Limit on the Retention of Live Smelts* – Public Laws 2013, [chapter 73](#). **This emergency law became effective on May 7.**

This new law eliminates the limit on live smelts that a person with a fishing license may keep as part of that person's daily bag limit. Previously, such a person was limited to keeping five dozen or fewer live smelts as part of that person's daily bag limit.

LD 585, *An Act to Require the Development of a Statewide Approach to Seaweed Management* – Public Laws 2013, [chapter 169](#).

This new law requires the Commissioner of Marine Resources to develop a statewide fisheries management plan for seaweed. The Commissioner is required to present that plan for review and comment to the Joint Standing Committee on Marine Resources no later than January 31, 2014.

LD 604, *An Act Regarding Commercial Elver Fishing Licenses Issued by the Penobscot Nation* – Public Laws 2013, [chapter 9](#). **This emergency law became effective on March 21.**

This law reduces the number of commercial licenses for the taking of elvers that the Penobscot Nation may issue. Going forward, the Penobscot Nation may not issue to its members commercial licenses that exceed specified limits.

LD 811, *An Act to Provide Guidance for the Development of Marine Fisheries Management Plans* – Public Laws 2013, [chapter 287](#).

This new law establishes general requirements for the development of fisheries management plans by the Commissioner of Marine Resources, including objectives the plans must seek to address and the management and scientific content for the plans. The law also provides that the commissioner may adopt a management plan or other policy on the conservation or regulation of marine organisms only after prior notice and public hearing and with the advice and consent of the Marine Resources Advisory Council. The law requires that a management plan be developed with advice and input from the advisory council for the species for which the plan is developed, if such an advisory council exists.

LD 879, *An Act to Increase State Wildlife Revenues and Grow the Hunting and Fishing Industries* – Public Laws 2013, [chapter 145](#).

This new law allows disabled veterans who are residents of either New Hampshire or Vermont to obtain Maine hunting, trapping and fishing licenses at no cost, if those veterans meet certain qualifications. Previously, only disabled veterans who were residents of Maine were entitled to such a benefit. However, for a resident of New Hampshire or Vermont to be eligible, that resident's home state must have a reciprocal agreement with Maine.

LD 931, *An Act to Prevent Fish Kills and to Allow for Recreational Use of Sebago Lake* – [Carried Over](#).

This bill would establish water flow requirements for the Eel Weir Dam and bypass area, which controls the water level of Sebago Lake and the flows entering the Presumpscot River. The bill seeks to provide higher water levels for boating uses, at the expense of multiple other uses of Sebago Lake and the Presumpscot River. This bill has been carried over to the 2014 legislative session.

LD 1040, *An Act to Prohibit the Placement of Cameras and Electronic Surveillance Equipment on Private Property without the Written Permission of the Landowner* – Public Laws 2013, [chapter 382](#).

This new law authorizes landowners to remove or disable electronic surveillance equipment on their property, unless the equipment is placed on their property with the landowner's written consent or pursuant to a warrant.

LD 1264, *An Act Allowing the Harvesting of Yellow Perch with Seines* – Public Laws 2013, [chapter 148](#).

This new law allows the harvesting of Yellow Perch by use of seines.

LD 1265, *An Act to Strengthen Maine's Assent Language for Participation in the Federal Aid in Wildlife Restoration Act* - Public Laws 2013, [chapter 189](#).

This new law requires the Commissioner of the Department of Inland Fisheries and Wildlife to ensure that revenue raised by the Department is used solely for the administration of the Department. This requirement applies to revenue received or recovered by the Department from license and permit fees; fines; the sale, lease or rental of property; penalties; and all other revenue sources pursuant to the laws of the State.

Government & Public Affairs

Legislation affecting campaign finance, election procedures and the procedures of government is often of particular interest to legislators themselves because these laws are constantly tinkered with each session. Some of the more significant laws enacted this session relate to closing the “revolving door” of government. Laws were enacted to prohibit certain Executive Branch employees from becoming lobbyists within one year of serving in state government, LD 859, and to prohibit legislators from becoming lobbyists within one year of serving in that capacity, LD 184. Maine’s Freedom of Access Act is another law that is perennially amended and there were plenty of proposals to do so this session. One proposal that drew significant attention was LD 345, which exempts concealed weapons permit date from the Freedom of Access Act. This was an issue of particular controversy after the Bangor Daily News moved to collect concealed weapons permit data on all permit holders in the state. Perhaps the most important political reform this session was the bill to implement the plan to redraw state House and Senate districts, LD 1557, which enjoyed broad support in both the House and Senate.

If you have a question about any of the new laws summarized in the Government & Public Affairs 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 a member of our [Government Relations Group](#): [John D. Delahanty](#) - 207.791.1222; [Andrea C. Maker](#) - 207.629.5928; [Avery T. Day](#) - 207.791.1157.

Bond Issues

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Legislative leaders opted to delay consideration of bond bills and did not vote on any bonding proposals before adjourning the First Regular Session. Rather, the Appropriations and Financial Affairs Committee has been directed to meet over the coming months to put together a bond package, which will likely be considered during a Special Session of the Legislature this fall in order to get a bond package added to the ballot in November. If no action is taken on bond bills in time for November’s ballot, the next bonding opportunity is June of 2014.

This session saw the introduction of roughly 35 bond proposals. Most bond bills are similar to past bonding efforts, proposing funding for things such as improvements to Maine’s highways, rail lines, ports and water systems, capital improvements at the State’s higher education facilities and research and development advances. Included in this year’s bond proposals are also bills to support Maine’s fishing industry in various ways, fund weatherization efforts and invest in economic development and Maine’s downtowns.

LD 246, *An Act to Provide for the 2013 and 2014 Allocations of the State Ceiling on Private Activity Bonds* - Private and Special Laws 2013, [chapter 2](#).

This new law allocates the State’s tax-exempt private activity bonding authority for calendar years 2013 and 2014 to the State Treasurer, the Finance Authority of Maine, the Maine Municipal Bond Bank, the Maine Educational Loan Authority, and the Maine State Housing Authority. This new law also leaves a substantial amount of this bonding authority unallocated to any one agency.

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Budget

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LD 1480, *An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2014 and June 30, 2015* – Public Laws 2013, [chapter 354](#). **This emergency law became effective on June 26.**

This new law establishes state spending on highways and bridges over the next biennium. This highway fund budget provides for the ongoing operation of state transportation assets as well as for the paving of hundreds of miles of roads and the purchase of new heavy equipment. Included in the highway fund budget is authorization for \$50 million in GARVEE bonds for the Sarah Mildred Long Bridge between Kittery, Maine, and Portsmouth, New Hampshire. This new law also includes language directing the Department of Transportation to submit legislation during the next legislative session to reestablish the Maine-New Hampshire Interstate Bridge Authority and to work with the Department of Environmental Protection to examine salt and sand storage facilities.

LD 1509, *An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2014 and June 30, 2015* – Public Laws 2013, [chapter 368](#). **Governor's veto overridden. This emergency law became effective on June 26.**

Perhaps the most significant piece of enacted legislation this session, this new law is the \$6.3 billion spending plan for the State over the next two fiscal years. Included within hundreds of pages of budget language are a number of policy initiatives, including restructuring the "Circuit Breaker" Program, authorizing the Executive Branch to identify 100 state positions to eliminate, authorizing the creation of a process to review tax expenditures, creation of a task force to examine taxing nonprofits, and placing \$4 million in the State's "rainy day fund." The biggest points of contention centered on the Governor's proposal to eliminate municipal revenue sharing, a proposal that was largely rejected in the final law, this new law's .5 percent increase to the sales tax and 1 percent increase to the meals and lodging tax. For more detail regarding significant tax changes in the biennial budget, click [here](#).

LD 1550, *An Act to Make Supplemental Allocations from the Highway Fund for the Expenditures of State Government Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2013* - Public Laws 2013, [chapter 321](#). **This emergency law became effective on June 21.**

This new law is a supplemental appropriations bill for the Highway Fund that decreases funding in various accounts in order to align Highway Fund spending with projected revenues provided by the Revenue Forecasting Committee.

LD 1563, *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 Laws 2013, [chapter 248](#). **This emergency law became effective on June 14.**

This new law is a supplemental spending measure to ensure State funding is available to make Medicaid payments to healthcare providers during the last few weeks of the 2012-2013 State fiscal year.

LD 1572, *An Act to Correct Minor Technical Errors and Inconsistencies in the Unified Budget Bill* – [Enacted and Pending the Governor's Action](#).

This bill is one of about twenty bills that were sent to the Governor just before the session adjourned, allowing the Governor to hold this bill until the Legislature reconvenes. This bill largely implements technical corrections to the biennial budget, though this bill became somewhat contentious for a technical corrections bill because it seeks to clarify a portion of the biennial budget that increases sales taxes from 5 percent to 5.5 percent. Without this correction, a \$6 million budget hole would be created over the biennium.

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Campaign Financing and Election Procedures

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LD 922, *An Act Regarding the Requirement that an Address be Provided in Disclaimers on Political Radio Advertisements* – Public Laws 2013, [chapter 362](#).

This new law amends existing disclosure requirements regarding political communications to clarify that only city and state address information need be disclosed in political communications broadcast via radio.

LD 1001, *An Act to Improve Laws Governing Financial Disclosure by Legislators and Certain Public Employees and Public Access to Information Disclosed* – Public Laws 2013, [chapter 401](#).

This new law amends existing financial disclosure requirements that apply to legislators and certain executive branch employees. These new requirements include providing a description of annual income, reporting an ownership interest of 5 percent or more in business entities (previously only interests of 50 percent or more were disclosed) and disclosing involvement as an officer of a political party or committee. This new law also requires electronic submission of disclosure reports with these reports being made publicly available online. Finally, this new law creates a process by which rules are to be developed to require reporting of income within certain ranges.

LD 1210, *An Act to Ensure Compliance with the Laws Governing Elections* – Public Laws 2013, [chapter 162](#).

This new law amends existing laws setting forth the powers of the Commission on Governmental Ethics and Election Practices. This new law expands the audit and investigation power of the Commission by allowing the Commission to undertake these actions to determine if a person has violated the statute or Commission rules. Previously, the Commission was limited to conducting audits and investigations under specific circumstance. This new law also authorizes the Attorney General to act on behalf of the Commission to enforce compliance with a subpoena issued to a nonresident.

LD 1299, *An Act to Amend Campaign Finance Laws* – Public Laws 2013, [chapter 334](#).

This new law, in 35 parts, makes extensive, technical amendments to existing state law regulating the financing of political races.

Freedom of Access

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LD 104, *An Act to Amend the Laws Governing Public Records* – Public Laws 2013, [chapter 339](#).

This new law creates a new exemption to the definition of public records in Maine's Freedom of Access Act to exclude e-mail addresses collected by public entities for the purpose of disseminating non-interactive notifications, updates and cancellations.

LD 619, *An Act to Prohibit the Sharing of Certain Personal Information by the Department of the Secretary of State* – Public Laws 2013, [chapter 283](#).

This new law requires that e-mail addresses provided to the Secretary of State's Office by applicants for licenses and registrations be kept confidential and only be disclosed to law enforcement or for court proceedings.

LD 1216, *An Act to amend the Freedom of Access Act* – Public Laws 2013, [chapter 350](#).

This new law amends Maine's Freedom of Access Act to require public entities to acknowledge receipt of a record request within five working days. Further, the public entity must provide an estimate of time it will take to comply with the request along with a cost estimate. Additionally, this new law clarifies that failing to send a notice of denial of a request is deemed a failure to allow inspection, which is appealable to Superior Court. Finally, this new law prescribes the procedure for an aggrieved person to appeal an agency's decision to Superior Court.

LD 1511, *An Act Regarding Coordinated Access to Public Records of State Agencies* – Public Laws 2013, [chapter 229](#).

This new law directs the Public Access Ombudsman to coordinate with individual agencies to establish a uniform method of record keeping of requests for information, response times and costs of compliance. This new law also directs the Attorney General's Office to study the feasibility of a central access point for information requests of information held by state agencies and report the results of this study to the Legislature by January 5, 2014.

Legislative/Executive Process

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LD 184, *An Act to Enhance Transparency in Government by Implementing a Waiting Period for Legislators Before They May Register as Lobbyists* – Public Laws 2013, [chapter 129](#).

Beginning with the convening of the 127th Legislature in 2014, this new law restricts former legislators from paid lobbying for one year after his/her term as a legislator. This new law also empowers the Commission on Governmental Ethics and Election Practices to investigate complaints under this restriction and to impose penalties for violations of this restriction.

LD 250, *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 (Fiscal Year 2013 Supplemental Spending Bill)* – Public Laws 2013, [chapter 1](#). **This emergency law became effective on March 6.**

This new law is the supplemental spending bill enacted in order to keep the State's budget in balance during the fiscal year ending on June 30, 2013. State spending and revenues regularly do not track anticipated amounts and supplemental spending bills are often required to keep the State's budget in balance. This law was mostly a transfer of various funds, including enacting spending reductions developed in an earlier curtailment order and a transfer of \$40 million from the State's "rainy day fund." For the most part, this law is about accounting and not policy.

LD 324, *An Act to Make Supplemental Allocations from the Highway Fund and Other Funds for the Expenditures of State Government Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2013* – Public Laws 2013, [chapter 42](#). **This emergency law became effective on April 16.**

This new law is a supplemental spending law for the Highway Fund in order to provide resources to Highway Fund accounts for the State fiscal year that ended June 30, 2013. This spending law was largely a "housekeeping" matter but did include \$2 million for the Highway and Bridge Capital program for capital projects and \$450,000 for the Island Ferry Service program for repairs and fuel costs.

LD 326, *An Act to Update the Maine Emergency Management Laws* – Public Laws 2013, [chapter 146](#).

This new law makes a number of minor, technical changes to the Maine Emergency Management Act to align state law with federal emergency laws by incorporating "homeland security" into the Maine Emergency Management Agency's focus. Additionally, this new law modifies dam evaluation and inspection requirements.

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LD 574, An Act to Amend the Laws Governing Reapportionment to Conform to the Constitution of Maine – Public Laws 2013, [chapter 85](#).

During the 125th Legislature, a Constitutional amendment was proposed and adopted to change federal and state reapportionment from occurring every ten years on the “threes” (e.g., 2023, 2033, etc.) to every ten years on the “ones” (e.g., 2021, 2031, etc.). This new law simply amends an existing statute so that Maine’s apportionment laws reflect Maine’s Constitutional law on this matter.

LD 785, An Act to Ensure the Periodic Review and Revision of Statutory Provisions – Public Laws 2013, [chapter 110](#).

This new law reforms current procedures in place to ensure that Maine statutory law does not conflict with developments in state and federal statutes and state and federal case law. State agencies are already required to provide periodic reports to the Legislature regarding potential conflicts in law with the statutes under the authority of individual agencies. Under this new law, these reports would be distributed to legislative committees of jurisdiction and the Judiciary Committee. Then Judiciary Committee would have the authority to report out conforming legislation.

LD 859, An Act to Increase Ethics and Transparency in Government Service – Public Laws 2013, [chapter 288](#). Beginning January 1, 2015, this new law prohibits a person from engaging in lobbying if they have served in certain Executive Branch positions during the previous twelve months. This new law provides for a \$100 per day fine for violations of this prohibition.

LD 1536, An Act to Correct Errors and Inconsistencies in the Laws of Maine – [Enacted and Pending Governor’s Action](#).

This bill is one of about twenty bills that were sent to the Governor just before the session adjourned, allowing the Governor to hold this bill until the Legislature reconvenes. Each year an errors and inconsistencies bill is enacted by the legislature to clean up statutory drafting mistakes that have been identified over the past year. This legislation is purely technical in nature and does not enact substantive changes in law.

LD 1557, An Act to Reapportion the Districts of the State Senate, State House of Representatives and County Commissioner – Public Laws 2013, [chapter 270](#).

This new law redraws the elective districts for state Senate, House and county commissioner races. These electoral districts are regularly redrawn in order to assure roughly equivalent populations in each district. These districts will be redrawn in 2021, following the next federal census.

LD 1564, Resolve, Approving the 2013 Draft and Arrangement of the Constitution of Maine Made by the Chief Justice of the Supreme Judicial Court and Providing for its Publication and Distribution – Resolves 2013, [chapter 75](#). **This emergency resolve became effective on June 18.**

Under Article X, Section 6 of the Maine Constitution, the Chief Justice of the Law Court is directed to arrange the state Constitution every 10 years. This resolve constitutes legislative approval of the Chief Justice’s arrangement of the state Constitution. Additionally, this resolve directs the Secretary of State to publish, in pamphlet form, copies of the newly arranged Constitution for distribution to municipal officers in each Maine town.

LD 1576, An Act to Fund Agreements with Certain State Employee Unions and Ensure Equitable Treatment for Other State Employees – [Enacted and Pending the Governor’s Action](#).

This bill is one of about twenty bills that were sent to the Governor just before the session adjourned, allowing the Governor to hold this bill until the Legislature reconvenes. This bill authorizes various cost components that are part of collective bargaining agreements reached between the State and several bargaining units representing state employees. This bill also provides for equitable treatment of employees that are not subject to collective bargaining.

LD 1577, *An Act to Fund the Agreement with Certain Judicial Department Employees* – [Enacted and Pending the Governor's Action](#).

This bill is one of about twenty bills that were sent to the Governor just before the session adjourned, allowing the Governor to hold this bill until the Legislature reconvenes. This bill authorizes funding of the biennium for the collective bargaining agreement reached by the Judicial Branch and the four bargaining units representing Judicial Branch employees. This bill also provides for equitable treatment of employees that are not subject to collective bargaining.

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Healthcare

One of the most visible and political issues addressed this session was repayment of the State's debt to Maine hospitals. During these deliberations, an attempt was made to link an expansion of Medicaid to the hospital debt repayment. Ultimately, a plan was enacted to repay the hospitals with a revenue bond secured by the future revenue generated by the state's wholesale liquor business, LD 1555, and Medicaid was not expanded. The hospitals may expect repayment this fall.

While Governor LePage chooses not to embrace the ACA, the federal Patient Protection and Affordable Care Act of 2010 continues to impact legislative activity in Maine. In light of the ACA's national plan for transitional reinsurance, Maine's Guaranteed Access Reinsurance Association is suspending its operations, LD 1167. Additionally, effective on June 15 of this year, the open enrollment period for health plans offered to the Maine individual market off-exchange must be consistent with the open enrollment period for the Maine health exchange, LD 812. Pursuant to a joint study order that did not require the Governor's signature, a Maine Health Exchange Advisory Committee is being established to provide advice on operations, governance and finances related to a federally operated Maine Health Exchange, should one be established. This Order had no Legislative Document reference number and a summary of it with a link to it is provided in this Report in the Healthcare Insurance subsection.

Consistent with the themes of improving access to care, the Legislature advanced several proposals. Physician Assistants, dental students, nurse practitioners, physicians' employees and staff and pharmacists were all authorized to expand the services they provide in small ways that may increase access to healthcare, LDs 556, 249, 197, 198 and 32. Also, patients will receive more information related to choice of providers upon discharge to home health or other institutional care, LD 447. Furthermore, physicians will be required to publicly disclose the prices of their most common services and procedures, LD 990.

The confidentiality of protected health information has been relaxed to advance coordination of care for mentally ill patients, LD 534 and for victims of domestic abuse or sexual assault, LD 882.

One other healthcare highlight is the expansion of the debilitating medical conditions for which a physician may certify the use of medical marijuana to include post-traumatic stress disorder, inflammatory bowel disease and dyskinetic and spastic movement disorders, LD 1062.

If you have a question about any of the new laws summarized in the Healthcare 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](#): [John D. Delahanty](#) - 207.791.1222; [Andrea C. Maker](#) - 207.629.5928; [Avery T. Day](#) - 207.791.1157.

Healthcare Delivery

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LD 123, *Resolve, Directing the Department of Health and Human Services to Clarify the Process Regarding Registration of Recovery Agencies for Tissue and Organ Donation* – Resolves 2013, [chapter 58](#).

This resolve directs the Maine Center for Disease Control and Prevention to examine the current process for tissue and organ donation to determine if State agencies meet the requirements of the Revised Uniform Anatomical Gift Act. The Center is directed to consult with the Chief Medical Examiner, the Secretary of State, the Maine Organ Donor Registry, the Organ Donation Advisory Council, the New England Organ Bank, and funeral directors in order to produce findings to be delivered to the Legislature by January 1, 2014.

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LD 197, *An Act to Permit Nurse Practitioners to Perform the Functions of School Physicians* – Public Laws 2013, [chapter 78](#).

This new law expands the range of practitioners who may serve as healthcare providers in a school to include family and pediatric nurse practitioners in addition to school physicians.

LD 198, *An Act to Clarify Physicians' Delegation of Medical Care* – Public Laws 2013, [chapter 33](#).

This new law provides that a physician or surgeon may delegate to his or her employees or support staff certain activities relating to medical care and treatment without the previously existing requirement that the physician or surgeon be present on the premises at the time the activities are performed.

LD 205, *An Act to Exempt Free Clinics from Licensing under the Charitable Solicitations Act*– Public Laws 2013, [chapter 60](#).

This new law exempts incorporated nonprofit health facilities that provide health care to persons at no charge (i.e., free healthcare clinics) from existing licensure and financial reporting requirements for charitable organizations.

LD 249, *Resolve, Directing the Board of Dental Examiners to Amend Its Rules to Improve Access to Oral Health Care in Maine* – Resolves 2013, [chapter 36](#).

This resolve directs the Board of Dental Examiners to amend its rules to permit a dental student to perform limited dental services in certain settings, commensurate with the student's level of training, including dental hygiene treatment, under the supervision and control of a licensed dentist or a teaching school. It further directs the Board of Dental Examiners to report on the anticipated implementation of such an amendment and anticipated effects on dental care in underserved areas.

LD 257, *An Act to Protect Newborns Exposed to Drugs or Alcohol* – Public Laws 2013, [chapter 192](#).

This new law provides greater detail than an existing law regarding the obligation of health care providers to report to the Department of Health and Human Services signs of fetal exposure to drugs or alcohol in infants from birth to twelve months of age, and requires the Department to determine whether to investigate such incidents to protect the infant involved, and to prepare a plan for the safe care of such an infant upon notification. The law repeals existing requirements that the Department investigate every such notification to determine the presence of abuse or neglect.

LD 305, *An Act to Eliminate Institute Councils for Mental Health Institutions* – Public Laws 2013, [chapter 132](#).

This new law eliminates institute councils, which had previously been established as governing bodies for the Dorothea Dix Psychiatric Center and the Riverview Psychiatric Center, respectively, and removes from existing law references to those councils.

LD 411, *An Act to Amend the Health Care Practitioner Licensing, Disciplinary and Reporting Laws Regarding Alcohol and Drug Abuse* – Public Laws 2013, [chapter 105](#).

This new law revises the standard for reporting knowledge of a healthcare practitioner's possible drug or alcohol abuse disorder to provide that a substance use disorder is grounds for professional discipline if it "may" result in the endangerment of patients, rather than the former "foreseeably likely" standard.

LD 416, *An Act to Allow Complainants in Disciplinary Actions to Attend Informal Conferences Held by the State Board of Nursing in Executive Session* – Public Laws 2013, [chapter 23](#).

This new law makes several changes to the disciplinary and licensing procedures of the Board of Nursing, in that it: (1) confirms that a complainant may attend and speak during an informal conference of the Board regarding a disciplinary action against a licensee; (2) authorizes the Board to report complaint information to licensing boards in other states to which a licensee has moved; and (3) authorizes the Board to take professional records from other states into account when making licensing decisions.

LD 447, *An Act to Increase Patient Choice in Health Care Facilities and Health Care Settings* – Public Laws 2013, [chapter 214](#).

This new law amends existing law regarding information that must be provided prior to discharge from a health care facility to patients in need of home health services, hospice, acute rehabilitation care, a hospital swing bed or nursing care. This new law requires that patients be provided with information regarding licensed providers, notice of their rights regarding choice of providers and contact information for the long-term care ombudsman. Finally, this new law directs the Department of Health and Human Services to undertake rulemaking to amend rules regarding licensing of nursing facilities.

LD 460, *An Act to Protect Newborn Infants from Critical Congenial Heart Disease* – Public Laws 2013, [chapter 397](#). **This emergency law became effective on July 2.**

This new law requires hospitals, birthing centers and other birthing services to screen for critical congenial heart disease, subject to providing parents with an exemption for religious reasons. This new law also requires the Department of Health and Human Services to refer newborns with confirmed treatable conditions to the Child Development Services System. Those facilities conducting these tests are required to report aggregate data to the Department of Health and Human Services regarding tests administered and test results.

LD 480, *An Act to Establish Fees under the Maine Medical Use of Marijuana Act* – Public Laws 2013, [chapter 394](#).

This new amends the Maine Medical Use of Marijuana Act to organize the fees payable under this Act into one subsection of law and establishes a number of new fees in order to implement this Act. This new law also clarifies the Act's requirements regarding regular criminal history checks for businesses operating under this Act.

LD 534, *An Act to Improve Care Coordination for Persons with Mental Illness* – Public Laws 2013, [chapter 326](#).

This new law establishes an exception to existing health care information confidentiality laws applicable to mental health information, for the purposes of care management and coordination of care among healthcare practitioners and between practitioners and payors.

LD 553, *An Act to Remove the Statement of Oral Condition as a Requirement for Denturists Making Partial Dentures* – Public Laws 2013, [chapter 83](#).

This new law removes the previously existing requirement that a denturist receive a certification of oral health from a licensed dentist before making partial dentures.

LD 556, *An Act to Modernize the Statutes Governing Physician Assistants* – Public Laws 2013, [chapter 101](#).

This new law: (1) adds a physician assistant seat to each of the Board of Licensure in Medicine and the Board of Osteopathic Licensure and provides for physician assistant membership on physician assistant advisory committees; (2) authorizes physician assistants to delegate medical acts to medical assistants, provided that such delegation is permitted under the plan of supervision established by the physician assistant and the supervising physician; (3) repeals an existing prohibition on physician assistants' employing supervising physicians; and (4) implements provisions intended to streamline the regulation of physician assistants across the Board of Licensure in Medicine and the Board of Osteopathic Licensure.

LD 597, *An Act to Inform Persons of the Options for the Treatment of Lyme Disease* – Public Laws 2013, [chapter 340](#).

This new law requires health care providers ordering a laboratory test to detect Lyme disease to provide their patient with a copy of the results of that test. This new law also directs the Maine Center for Disease Control and Prevention to add various statements regarding the diagnosis and treatment of Lyme disease on its website. This was a very controversial bill and was spared defeat in the House by only one vote.

LD 727, *An Act Establishing Health Care Practitioner Transparency Requirements* – Public Laws 2013, [chapter 285](#).

This new law regulates advertisements by health care practitioners by prohibiting deceptive or misleading advertisements and requiring that the practitioner disclose the practitioner's name, type of license and common term for the practitioner's profession in the advertisement. Additionally, this new law requires health care practitioners to comply with identification requirements regarding display of their license and name badges while seeing patients. Finally, this new law empowers licensing boards to discipline practitioners violating these requirements.

LD 829, *Resolve, To Continue the Redesign of Shared Living Services for Adults with Intellectual Disabilities or Autism* – Resolves 2013, [chapter 57](#). **This emergency resolve became effective on June 19.**

This resolve directs the Department of Health and Human Services to continue its work on the redesign of its shared living program and to submit a progress report to the Legislature by January 15, 2014.

LD 882, *An Act to Amend the Laws Governing Confidentiality of Health Care Information to Enhance Public Safety* – Public Laws 2013, [chapter 289](#).

This new law amends existing law to expand upon the circumstances under which a healthcare practitioner can disclose protected health information. Under this new law, information may be disclosed to government entities when it pertains to domestic violence or sexual assault, provided it is disclosed in accordance with federal regulations.

LD 884, *An Act to Improve Death Investigations* – Public Laws 2013, [chapter 113](#).

This new law amends existing law to set forth parameters regarding whom the Chief Medical Examiner can appoint to conduct death investigations. Under this new law, the Chief Medical Examiner can appoint medicolegal death investigators that may either be employees or work on a fee-for-service basis. This new law also limits liability for medicolegal death investigators to only those instances where damages result from gross negligence.

LD 986, *Resolve, To Establish the Commission to Study Long-Term Care Facilities* – [Enacted and Pending the Governor's Action](#).

This bill is one of about twenty bills that were sent to the Governor just before the session adjourned, allowing the Governor to hold this bill until the Legislature reconvenes. This resolve would create the Commission to Study Long-Term Care Facilities. This Commission would be charged with examining funding for long-term care facilities, including studying an acuity-based reimbursement system and a pay-for-performance system. Additionally, the Commission would be required to study staffing regulations, resource sharing with hospitals, the viability of facilities in rural Maine and the impact of nursing home closures on rural populations. The Commission would be directed to develop recommendations regarding these issues and to report these recommendations to the Legislature by December 4, 2013.

LD 990, *An Act to Require Public Disclosure of Health Care Prices* – Public Laws 2013, [chapter 332](#).

This new law requires healthcare practitioners to maintain a price list of their most frequently provided services and procedures (defined as those provided by the practitioner at least fifty times in the preceding year). The price list must reflect the prices that the practitioner charges directly to a patient in the absence of insurance coverage or reimbursement. Practitioners must inform patients as to the availability of the price list, and provide copies upon request.

LD 1024, *An Act to Enhance Enforcement of the Mandatory Reporting of Abuse and Neglect* – Public Laws 2013, [chapter 293](#).

This new law requires the Department of Health and Human Services to make a report to the licensing board of any professional who appears from the record or relevant circumstances to have violated Maine's mandatory reporting laws. Confidential child protection information disclosed as part of this report must be kept confidential.

LD 1062, *An Act to Add Conditions That Qualify for Medical Marijuana Use* – Public Laws 2013, [chapter 361](#). This new law expands the list of debilitating medical conditions for which a physician may certify the use of medical marijuana pursuant to the Maine Medical Use of Marijuana Act, adding post-traumatic stress disorder, inflammatory bowel disease (in place of the existing reference to Crohn’s disease), and dyskinesic and spastic movement disorders.

LD 1134, *An Act to Allow Collaborative Practice Agreements between Authorized Practitioners and Pharmacists* – Public Laws 2013, [chapter 308](#). This new law authorizes licensed, qualified pharmacists to engage in collaborative drug therapy management pursuant to a collaborative practice agreement with an authorized practitioner.

LD 1155, *An Act to Ensure the Integrity of Neuropsychological Testing Materials* – Public Laws 2013, [chapter 353](#). **This emergency law became effective on June 25.** This new law establishes parameters for disclosure of certain neuropsychological test materials and results. The law provides that such matter may not be disclosed, including to the person who is the subject of the test and including in any administrative, judicial or legislative proceeding with one exception. The except is that the person who is the subject of neuropsychological testing is entitled to have all records relating to that evaluation, including test materials and results, disclosed to any qualified neuropsychologist or psychologist designated by the person, provided that that person may not further disclose the materials.

LD 1189, *Resolve, Regarding Implementation of Cost-of-Living Increases for Nursing Facilities* – Resolves 2013, [chapter 72](#). **This emergency resolve became effective on June 28.** This resolve directs the Department of Health and Human Services to amend existing rules regarding cost-of-living adjustments for nursing facilities. This resolve requires new rules that extend the period of time allowed for required wage increases for frontline employees to take effect.

LD 1238, *An Act to Improve Professional Training for Licensed Mental Health Clinicians* – Public Laws 2013, [chapter 262](#). This new law augments the licensure requirements, and license renewal requirements, for psychologists, clinical professional counselors and clinical social workers by requiring that, beginning January 1, 2020, applicants for licensure, or licensure renewal, complete a minimum of 15 hours of coursework in spousal or partner abuse screening and referral and intervention strategies, including knowledge of community resources, cultural factors, evidence-based risk assessment and same-gender abuse dynamics. Licensure boards are required to accept certification from an accredited educational institution if an applicant has satisfied certain coursework requirements at the institution from which the applicant graduated.

LD 1487, *An Act to Implement Managed Care in the MaineCare Program* – [Carried Over](#). This bill, which proposes establishing managed care for certain members of the MaineCare program, has been carried over to the next legislative session. As introduced, this bill sets forth in detail managed care requirements and the contracting process to be used by the Department of Health and Human Services for managed care services.

LD 1523, *An Act to Strengthen the Laws Governing Mandatory Reporting of Child Abuse or Neglect* – Public Laws 2013, [chapter 268](#). This new law prescribes additional requirements to Maine’s mandatory reporting laws by requiring various healthcare providers to report to the Department of Health and Human Services specific injuries for children under six months of age or that are otherwise non-ambulatory.

LD 1555, *An Act to Strengthen Maine's Hospitals and to Provide for a New Spirits Contract* - Public Laws 2013, [chapter 269](#). **This emergency legislation became effective on June 14, 2013, except the repeal of current law governing the current liquor wholesale and distribution contract will take effect on July 1, 2014, when the current contract expires.** Part A of this law authorizes the Commissioner of Administrative and Financial Services to enter into new 10 year contracts for the warehousing, distribution, spirits administration and spirits trade marketing pursuant to

a competitive bid process described in Maine's procurement laws. It also provides for the State's alcohol bureau to set the price of spirits at a minimum discount rate of 12% of the list price, and provides that discount rates greater than 12% may be established by rulemaking. Part B of this law provides for the issuance of bonds by the Maine Municipal Bond Bank, secured by the revenue stream anticipated from the liquor business. The bonds will pay the State's outstanding debt in the amount of about \$180 million to Maine hospitals due to Medicaid payment shortfalls. Other projected revenue from the liquor business will be used to fund drinking water and sewerage treatment projects as well as highway and bridge construction. Funds not expended during the duration of the bond period will be retained in the State's rainy day fund.

LD 1574, *Resolve, Establishing the Commission to Study the Incidence of and Mortality Related to Cancer – Enacted and Pending the Governor's Action.*

This bill is one of about twenty bills that were sent to the Governor just before the session adjourned, allowing the Governor to hold this bill until the Legislature reconvenes. This resolve would create the Commission to Study the Incidence of and Mortality Related to Cancer. This Commission would be charged with examining Maine's above-average rates of cancer incidence and mortality along with the State's current prevention, detection and treatment goals and priorities. The Commission would be required to collect at least 50 percent of its costs from sources outside of State government. The Commission would be directed to develop recommendations regarding these issues and to report these recommendations to the Legislature by December 4, 2013.

Health Information Technology

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LD 23, *An Act to Lower the Cost of Copies of Medical Records* – Public Laws 2013, [chapter 32](#).

This new law amends current law setting a maximum amount that a hospital may charge for the first page of copies of medical records. The existing maximum for the first page of records was reduced from \$10 to \$5 and additional pages remain set at 35 cents.

LD 252, *An Act Regarding Registration and Correction of Death Information on Death Certificates* – Public Laws 2013, [chapter 31](#).

This new law adds the Office of the Chief Medical Examiner as a certifier of cause of death on a death certificate to accommodate the electronic death registration system, and permits the electronic submission of amendments to a death certificate using the electronic death registration system.

LD 253, *An Act Regarding Registration of Fetal Deaths* – Public Laws 2013, [chapter 14](#).

This new law allows a fetal death certificate to be filed with the State Registrar of Vital Statistics as well as with the municipal clerk, as provided under existing law. The law also authorizes a hospital or an institution to prepare and file a fetal death certificate based on medical information provided by a physician or other person in attendance at delivery, such that the physician or other person in attendance need not personally complete the certificate.

LD 454, *An Act Relating to Health Care Provider Liability Claims Reports* – Public Laws 2013, [chapter 59](#).

This new law clarifies that the Superintendent of Insurance has authority to forward information received from professional liability insurers regarding claims against healthcare providers to the relevant licensing authorities covering such providers. Existing law had provided this authority only with respect to physician licensing boards and not to the state licensing authorities with oversight of other healthcare practitioners.

LD 1500, *An Act Regarding the Cost of Copies of Medical Records* – Public Laws 2013, [chapter 158](#).

This new law amends the current law regarding copies of medical records to specify that it applies to paper copies, to change the maximum per page charge to 45 cents, and to cap the total charge for a paper record at

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\$250. The law requires electronic copies of medical records to be made available upon request if reasonably possible, allows charges for reasonable costs of staff time and necessary costs for supplies and postage, and caps the total charge for an electronic record at \$150. The law prohibits a health care practitioner or hospital, when charging for an electronic copy of a medical record, from charging a retrieval fee or for the costs of new technology, maintenance of the electronic record system, data access or storage infrastructure.

Healthcare Insurance

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LD 506, *Resolve, Directing the Bureau of Insurance to Amend Its Rules Pertaining to Medicare Advantage Plans* – Resolves 2013, [chapter 19](#). **This emergency resolve became effective on May 14.**

Recent interpretations under federal regulations appeared to limit the ability of a Medicare beneficiary to move from one Medicare Advantage plan to another Medicare Advantage plan without losing continuity of coverage. This resolve directs the Maine Bureau of Insurance to amend its rules to clarify that a Medicare beneficiary has the right to transfer enrollment from one Medicare Advantage Plan to another Medicare Advantage Plan offered by the same insurer or a different insurer for a period of 3 years without affecting the beneficiary's continuity of coverage. These rules will be considered routine technical rules, meaning the rule will not be submitted to the Legislature for approval. This resolve was an emergency measure, meaning the Bureau was authorized to advance these rule changes on May 14, when the Governor signed it.

LD 534, *An Act to Improve Care Coordination for Persons with Mental Illness* – Public Laws 2013, [chapter 326](#).

This new law establishes an exception to existing health care information confidentiality laws applicable to mental health information, for the purposes of care management and coordination of care among healthcare practitioners and between practitioners and payors.

LD 603, *An Act to Repeal an Insurance Reporting Requirement* - Public Laws 2013, [chapter 52](#).

Under this new law, the Maine Superintendent of Insurance will no longer provide an annual report to the Department of Labor, Bureau of Labor Standards regarding workers' compensation insurance premiums and loss costs paid and incurred by workers' compensation insurers and self-insurers. The legislation was submitted by the Department of Professional and Financial Regulation.

LD 645, *An Act to Allow the Adjustment of the Assessment Rate for the Rural Medical Access Program* - Public Laws 2013, [chapter 170](#).

Maine's Rural Medical Access Program is funded by an assessment of 0.75% of physician's professional liability insurance premium. Over the years, collections have exceeded expenses, resulting in an accumulation of funds in the Program. This new law authorizes the Superintendent of Insurance to initiate rulemaking to lower the assessment rate and allow for the prudent drawdown of excess funds. The law brackets the rulemaking authority to a rate that does not result in collections exceeding \$500,000 per year, and the rate may not exceed 0.75% of premium unless the fund balance dips below \$50,000. Even in that event, the rate may not exceed 1% of premium. This rulemaking will be routine technical, meaning the rates will not be submitted to the Legislature for approval. The legislation was submitted by the Department of Professional and Financial Regulation.

LD 653, *An Act to Remove an Unnecessary Provision in the Maine Insurance Code* - Public Laws 2013, [chapter 94](#).

This law removes an irrelevant provision of law requiring issuers of standardized Medicare supplemental plans to provide prescription drug benefit coverage to an insured who lost coverage under the low-cost drugs for the elderly or disabled program. This law became irrelevant when Medicare Part D prescription drug coverage was

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removed from all standardized Medicare supplement plans. The legislation was submitted by the Department of Professional and Financial Regulation.

LD 812, *An Act to Create an Open Enrollment Period Consistent with Federal Regulations for Health Insurance Exchanges* – Public Laws 2013, [chapter 271](#). **This emergency law became effective on June 15.**

This new law addresses the open enrollment period for individual health insurance plans sold in Maine outside the context of the individual health insurance exchange, or “Marketplace,” to be operated in Maine pursuant to the terms of the Affordable Care Act. The law establishes an open enrollment period for such off-exchange individual plans that is consistent with the open enrollment period established by federal regulations for the individual exchange, and provides for the same special enrollment periods that exist for coverage purchased through the individual exchange.

LD 990, *An Act to Require Public Disclosure of Health Care Prices* – Public Laws 2013, [chapter 332](#).

This new law requires healthcare practitioners to maintain a price list of their most frequently provided services and procedures (defined as those provided by the practitioner at least fifty times in the preceding year). The price list must reflect the prices that the practitioner charges directly to a patient in the absence of insurance coverage or reimbursement. Practitioners must inform patients as to the availability of the price list, and provide copies upon request.

LD 1167, *An Act Regarding the Maine Guaranteed Access Reinsurance Association* – Public Laws 2013, [chapter 273](#).

This new law suspends the operations of the Maine Guaranteed Access Reinsurance Association (MGARA) for the period of time during which a transitional reinsurance program will be operated by the federal government in Maine pursuant to the provisions of the Affordable Care Act (currently expected to be from January 1, 2014 to December 31, 2016). The law directs MGARA’s board of directors to amend, and submit for approval of the Superintendent of Insurance, the organization’s plan of operation in order to accommodate the suspension and payment of reinsurance claims incurred before the effective date of suspension.

LD 1466, *An Act to Amend the Law Governing Provider Contracts with Insurance Companies* – Public Laws 2013, [chapter 399](#).

This law imposes certain requirements regarding the terms of preferred provider (i.e., in-network) arrangements between health insurance carriers and healthcare providers. These include, among others, inclusion of a fee schedule within a preferred provider agreement or related data regarding the basis for reimbursement, and limitations on contract amendments affecting provider reimbursement.

LD 1437, *An Act to Amend the Law Governing Provider Contracts with Insurance Companies* – Public Laws 2013, [chapter 355](#).

Consistent with a series of other bills passed this Session, this law imposes on physician assistants rights and obligations that parallel existing rights and obligations applicable to physicians and certain other healthcare professionals, in this case with respect to (1) reporting, and being the subject of reports of medical malpractice or other misconduct and (2) exceptions to recovery for treatment without informed consent.

Joint Study Order, *Establishing the Maine Health Exchange Advisory Committee* - Adopted in the House and Senate.

This joint order was passed to establish an advisory committee to the Legislature with respect to the federal health benefit exchange pursuant to the federal Patient Protection and Affordable Care Act. This 20 member committee will advise the Legislature regarding the interests of individuals and employers, serve as a liaison between the exchange and individuals and small businesses, and provide advice on governance, financial and coordination issues. The Committee is to report to the Joint Standing Committee on Insurance and Financial Services by December 16, 2013. The Joint Study Order does not require the Governor's signature and was effective upon adoption. [Health Exchange Advisory Committee Joint Study Order](#)

Pharmacy

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LD 32, *An Act to Expand the Types of Vaccines that may be Administered by Pharmacists* – Public Laws 2013, [chapter 6](#).

This new law expands upon the type of vaccines that may be administered by pharmacists to vaccines outside of federal CDC's guidelines on immunization practices to prescription vaccines that are medically necessary. Prior statute limited pharmacists to administering vaccines recommended by the federal CDC's guidelines on immunization practices only.

LD 44, *An Act Regarding Pharmacy Provider Audits* – Public Laws 2013, [chapter 71](#).

This new law amends existing law related to on-site audits of pharmacy providers by pharmacy benefits managers by requiring advance notice of audits, providing providers a right to request mediation in the event of a disagreement, and clarifies that retrospective denials of claims apply to pharmacy claims subject to an audit.

LD 148, *An Act to Amend the Laws Governing Pharmacy Interns* – Public Laws 2013, [chapter 98](#).

This new law provides that certain pharmacists may delegate their authority to administer drugs and vaccines to pharmacy interns under certain circumstances

LD 171, *An Act to Facilitate the Personal Importation of Prescription Drugs from International Mail Order Prescription Pharmacies* – Public Laws 2013, [chapter 373](#).

This new law creates an exemption from Maine's prohibition on the unlicensed practice of pharmacy if the pharmacies are located in certain countries and import prescription drugs to Maine residents for personal use. This law is in reaction to former Attorney General Schneider's finding that a foreign, unlicensed mail order pharmacy was in violation of Maine's prohibition on the unlicensed practice of pharmacy.

LD 338, *Resolve, Directing the Department of Health and Human Services to Amend Its Rules Governing the Use of Certain Antipsychotic Drugs by Children Enrolled in MaineCare* – Resolves 2013, [chapter 17](#).

This resolve directs the Department of Health and Human Services to amend its rules pertaining to the use of atypical antipsychotic medications by a child under 17 years of age enrolled in MaineCare to require that a prescriber of such medication beyond the recommended period (1) provide documented justification as to why the child should continue taking the medication, and (2) perform a timely assessment and ongoing monitoring of metabolic and neurologic variables of the child in accordance with the American Academy of Child and Adolescent Psychiatry's Practice Parameter for the Use of Atypical Antipsychotic Medications in Children and Adolescents.

LD 388, *Resolve, To Improve the Participation Rate of Prescribers in the Controlled Substances Prescription Monitoring Program* – Resolves 2013, [chapter 25](#). **This emergency resolve became effective on May 20.**

This resolve directs the Substance Abuse Services Commission to develop procedures to increase registration in the Controlled Substances Prescription Monitoring Program by prescribers. The Commission is also required to report recommendations and suggested legislation to the Health and Human Services Committee by January 1, 2014.

LD 716, *Resolve, To Review and Make Recommendations on Appropriate Prescribing of Certain Medications for Children with Attention Deficit Hyperactivity Disorder that are Reimbursed under the MaineCare Program* – Resolves 2013, [chapter 68](#).

This resolve directs the Commissioner of the Department of Health and Human Services to convene a work group to make recommendations regarding the prescription of certain medications to children who are members of the MaineCare Program with attention deficit hyperactivity disorder and to examine access to behavioral health and psychiatric services. The Department is directed to report the findings of this work

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group to the Legislature by January 15, 2014.

LD 881, *An Act to Improve the Unused Pharmaceutical Disposal Program* – Public Laws 2013, [chapter 121](#).

This new law makes minor, technical changes to the Unused Pharmaceutical Disposal Program to reduce the cost of safe, effective and proper disposal of unused pharmaceuticals. The language of this new law was the result of recommendations of the Prescription Drug Abuse Task Force established by Governor LePage and Attorney General William Schneider.

LD 1134, *An Act to Allow Collaborative Practice Agreements between Authorized Practitioners and Pharmacists* – Public Laws 2013, [chapter 308](#).

This new law sets the parameters under which licensed pharmacists can engage in collaborative drug therapy management. Under collaborative drug therapy management, a pharmacist may initiate, monitor, modify or discontinue a patient's drug therapy as authorized by a healthcare practitioner. This management must be provided according to a collaborative practice agreement between a pharmacist and an authorized health care practitioner.

Insurance

The Legislature's primary focus in the insurance area was on health issues. The two major issues were revisiting the legislation enacted during the 125th legislature to reform Maine's health insurance laws, commonly known as "PL 90" and continuing to examine the health insurance exchanges mandated by the federal Affordable Care Act. Democrats had campaigned against PL 90 during the last election and they introduced a number of proposals to revisit or undo PL 90, including LD 83, LD 102, LD 161, LD 225 and LD 546, but none of these advanced. Health insurance exchange legislation proposals had mixed results, with LD 812 and LD 1094 becoming law and LD 547 and LD 1049 being defeated. The debate regarding a Maine exchange is certain to be revisited next year, as the Legislature created the Maine Health Exchange Advisory Committee and has tasked this Committee with meeting over the coming months to develop legislative recommendations regarding an exchange.

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](#): [John D. Delahanty](#) - 207.791.1222; [Andrea C. Maker](#) - 207.629.5928; [Avery T. Day](#) - 207.791.1157.

Administrative

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LD 603, *An Act to Repeal an Insurance Reporting Requirement* - Public Laws 2013, [chapter 52](#).

Under this new law, the Maine Superintendent of Insurance will no longer provide an annual report to the Department of Labor, Bureau of Labor Standards regarding workers' compensation insurance premium and loss costs paid and incurred by workers' compensation insurers and self-insurers. The legislation was submitted by the Department of Professional and Financial Regulation.

LD 648, *An Act to Make Records of External Review Proceedings Overseen by the Bureau of Insurance Confidential* - Public Laws 2013, [chapter 274](#).

When the Bureau of Insurance arranges for an external review proceeding concerning a health insurer's adverse health care treatment decision, this law provides that the records will be confidential, except that the parties to the external review proceeding may obtain a transcript or recording of the proceeding and a copy of any evidence. The law also requires the Superintendent to report aggregate, personally de-identified information relating to external review decisions to the Legislature and the public on an annual basis.

LD 1485, *An Act Relating to Insurance Company Formation and Dissolution* - Public Laws 2013, [chapter 299](#).

This new law makes a number of technical changes to laws governing the formation and dissolution of insurance companies including: (1) substituting "articles of incorporation" for the more antiquated term of "certificates of organization"; (2) reducing the number of copies that must be filed with the Bureau of Insurance when forming or dissolving an insurance company; (3) clarifying the process to be followed when dissolving an insurance company; and (4) confirming that Maine insurance corporations are subject to the requirements of the Maine Business Corporation Act.

LD 1519, *An Act to Update the Maine Insurance Code to Maintain Conformance with Uniform National Standards* - Public Laws 2013, [chapter 238](#).

This new law substantially revises numerous parts of the Maine Insurance Code to incorporate recent amendments to model laws adopted by the National Association of Insurance Commissioners. The Bureau of Insurance proposed this new law in order to facilitate the State's compliance with the National Association of Insurance Commissioners' accreditation requirements.

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LD 1444, *An Act Relating to Title Insurers Issuing Closing or Settlement Protection* – Public Laws 2013, [chapter 233](#).

This new law authorizes title insurers to issue closing or settlement protection as a form of insurance approved by the Bureau of Insurance. This type of insurance indemnifies the buyer, borrower and lender in a real estate transaction against losses due to theft of settlement funds or the closing agent's failure to comply with written closing instructions. The law authorizes a title insurer to charge a fee for this insurance, provided the fee is filed with the Bureau of Insurance.

Health Insurance - See [Healthcare Insurance](#)

Long-Term Care

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LD 891, *An Act to Create Uniform Claims Paying Practices in Long-Term Care Insurance Policies* – Public Laws 2013, [chapter 278](#). **This emergency law became effective on June 18.**

This new law establishes uniform claims practices for long-term care insurers, first by specifying time periods for insurers to request documentation regarding the claim. Also, this law requires payment of claims within 30 days or receipt of all necessary documentation by the insurer, and limits an insurer's ability to delay payment further by requesting additional information. Finally, this law requires the Bureau of Insurance to initiate rulemaking to implement this law and to report the results of this rulemaking to the Legislature by March 1, 2014.

LD 1092, *An Act to Increase the Use of Long-Term Care Insurance* – [Carried Over](#).

This bill, which has been carried over to the next legislative session, proposes the creation of a new MaineCare program. Though this program, a person otherwise eligible for long-term care benefits under MaineCare who owns a life insurance policy in excess of \$10,000 may qualify for MaineCare, provided they enter into a life settlement contract with payments going directly to a provider of long-term care benefits.

Notice

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LD 848, *Resolve, Directing the Bureau of Insurance to Amend Its Rules Pertaining to 3rd-Party Notice of Cancellation* – Resolves 2013, [chapter 39](#).

This resolve directs the Bureau of Insurance to amend Bureau of Insurance Rule Chapter 580 regarding 3rd-party notice of cancellation to add an additional alternative for compliance when an insured pays a premium through a payroll deduction plan.

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LD 296, *An Act to Equalize the Fire Investigation and Prevention Tax Paid by Insurers* – Public Laws 2013, [chapter 95](#).

This new law modifies the process by which the fire investigation and prevention tax is calculated by requiring the Bureau of Insurance to determine every 5 years the basis percentage of fire risk allocated to each line of insurance. The tax is used to defray the costs incurred by the State Fire Marshal in administering fire prevention and investigation laws and rules as well as educating the public on fire safety.

LD 452, *An Act Concerning Hurricane Deductibles* – Public Laws 2013, [chapter 38](#).

This new law directs the Superintendent of Insurance to adopt routine technical rules regarding the use of hurricane deductibles.

LD 628, *An Act to Clarify Uninsured Vehicle Coverage for Multiple Claimants* – Public Laws 2013, [chapter 284](#).

Revising existing law regarding underinsured vehicle coverage, this new law prescribes how insurance coverage is apportioned to claimants when multiple claimants are covered by a single per accident limit. The amount of underinsured vehicle coverage available to each claimant is calculated by deducting any payments received from the owner or operator of the vehicle from the single limit, and coverage is capped at the policy's single limit.

Litigation

There were few significant judicial process reforms resulting from this session. Legislation to move Maine closer to a discovery rule for statutes of limitations purposes in certain cases regarding defective medical products, LD 1331, ultimately did not become law after the Governor vetoed the bill. Smaller changes, such as allowing people 70 years of age and older to opt out of jury duty, LD 310, and establishing new ethical standards for court reporters, LD 1469, however, did become law. There were a number of proposals submitted to reform the oversight of guardians *ad litem* during divorce proceedings. After intense negotiations, LD 872 was enacted to do just that.

Maine's driver licensing laws and motor vehicle regulations are the subject of frequent amendments. This year, a bill to prohibit the use of handheld cellular telephones while driving, LD 68, advanced out of committee but was defeated on the floors of the House and the Senate.

If you have a question about any of the new laws summarized in the Litigation 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](#): [John D. Delahanty](#) - 207.791.1222; [Andrea C. Maker](#) - 207.629.5928; [Avery T. Day](#) - 207.791.1157.

Automotive Related

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LD 85, *An Act to Amend the Motor Vehicle Ignition Interlock Device Requirements in the Laws Regarding Operating Under the Influence* – Public Laws 2013, [chapter 187](#).

This new law amends existing law regarding the suspension of driver's licenses for operating under the influence by increasing the mandatory minimum suspension for three or more offenses within a 10-year period from 6 years to 8 years. The law also amends existing law as it relates to reinstatement of licenses for those using ignition interlock devices by removing the requirement that these devices be installed for four years after a suspension period has run. Further, this new law authorizes the Secretary of State to reinstate the license of a person with four or more offenses before the expiration of the license suspension period, provided they install an ignition interlock device for a period of four years.

LD 187, *An Act to Permit Temporary Operation of a Motor Vehicle with an Expired Operator's License Solely for the Purpose of Traveling Home or Renewing the License* – Public Laws 2013, [chapter 24](#).

This new law allows the police to issue a permit to a driver with a license that expired within the past 90 days to drive to their residence or the Bureau of Motor Vehicles in order to renew their driver's license.

LD 589, *An Act to Strengthen the Law Regarding Texting and Driving* – Public Laws 2013, [chapter 188](#).

This new law enhances the penalties that apply to violations of Maine's prohibition on texting while driving. Under the law, the penalty for a first offense is at least \$250, the penalty for a second offense within three years of the first is at least \$500, and the penalty for three or more offenses within a three-year period is temporary suspension of a driver's license.

LD 919, *An Act to Require an Operator to Provide Evidence of Liability Insurance or Financial Responsibility at the Scene of an Accident* – Public Laws 2013, [chapter 291](#).

This new law requires a driver involved in an accident to provide evidence of liability insurance or financial responsibility if the accident results in injury or death or damage to a vehicle or other property. Failure to meet this requirement is a traffic infraction.

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LD 1260, *An Act to Allow Ignition Interlock Devices on Vehicles Operated by First-Time Offenders of Operating Under the Influence* – Public Laws 2013, [chapter 389](#).

This new law amends existing statute regarding the penalties for a conviction of operating under the influence. The law extends the license suspension period for first time offenders from 90 days to 150 days. Offenders are still eligible for early reinstatement if they install an ignition interlock device, but must have their license suspended for at least 30 days before reinstatement. This new law also establishes a fee for those using interlock devices and increases fees for license reinstatement.

LD 1296, *An Act to Require the Secretary of State to Suspend a Person's License in Certain Instances Regardless of whether an Accident Report Has Been Filed* – Public Laws 2013, [chapter 123](#).

This new law requires the Secretary of State to suspend a driver's license when a judgment is rendered against that motorist for an unreported traffic accident that resulted in bodily injury, death or property damage of at least \$1,000.

LD 1460, *An Act to Update and Clarify the Laws Governing the Operation of Bicycles on Public Roadways* – Public Laws 2013, [chapter 241](#).

This new law makes a number of changes to existing traffic laws as they apply to bicycles including: (1) including bicycles in the definition of "traffic," meaning vehicles must yield the right-of-way to bicycles when making left turns; (2) requiring that motor vehicles not make right turns unless those turns do not interfere with the operation of a bicycle or roller skis; (3) clarifying that the operator of a bicycle or roller skis determines how far to the right they can operate safely; and (4) creating a presumption that a motor vehicle was in violation of the three-foot distance requirement when there is a motor vehicle collision with a bicycle or roller skis.

LD 1464, *An Act to Streamline the Laws Related to Transportation* – Public Laws 2013, [chapter 220](#).

This new law provides the Department of Transportation more flexibility to grant exceptions to the prohibition against allowing access to controlled access highways when the Commissioner of Transportation determines access will not affect safety and mobility. The law also directs the Department of Transportation to work with legislative experts to examine the structure of Title 23 and provides that recommendations for rewriting this Title must be submitted to the Legislature by December 4, 2013

Judicial Process Reforms

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LD 310, *An Act to Exempt Persons 80 Years of Age and Older from Jury Duty at Their Discretion* – Public Laws 2013, [chapter 74](#).

This new law excuses from jury service a person 80 years of age or older who simply does not wish to serve on a jury.

LD 381, *An Act to Allow a Court to Order a Person Who Violates a Municipal Ordinance to Perform Community Service Work* – Public Laws 2013, [chapter 114](#).

This new law authorizes a court to order a person found to have violated a municipal ordinance to perform community service work for the benefit of a public entity or charitable institution if the municipality in question oversees the community service order and ensures compliance with the order.

LD 396, *An Act to Appropriate Sufficient Funds for Indigent Legal Services* – [Carried Over](#).

This funding bill, which has been carried over to the next legislative session, proposes an increase in the hourly rate of pay for attorneys providing indigent legal services. As amended by the Judiciary Committee, this bill proposes increasing the rate of pay to \$60 per hour during the current fiscal year and to \$65 per hour thereafter.

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LD 415, *An Act to Require a Warrant to Obtain the Location Information of a Cell Phone or Other Electronic Device* – Public Laws 2013, [chapter 409](#). **Governor’s veto overridden.**

This new law was one of a handful of bills this session that became law by votes in both houses overriding a Governor’s veto. The law requires governmental entities to obtain a warrant in order to access location information from electronic devices such as cellular telephones and requires the governmental entity to notify the owner or user of an electronic device when their location information is accessed, subject to certain exceptions. The law also sets forth conditions under which this information may be used as evidence in court.

LD 419, *Resolve, Directing the Family Law Advisory Commission to Study and Report on the Uniform Parentage Act and Other Similar Laws and Proposals* – Resolves 2013, [chapter 12](#).

This new law authorizes the Family Law Advisory Commission to review Maine’s family laws generally, including the Uniform Parentage Act and other similar laws and proposals, for the purpose of making recommendations to clarify and update Maine law with respect to determining parental rights when “genetic, biological, and factual parentage cannot be determined in traditional ways.” This resolve charges the Commission to make its recommendations, along with any necessary implementing legislation, by December 1, 2013.

LD 527, *An Act to Protect Vulnerable Adults from Exploitation* – Public Laws 2013, [chapter 414](#).

This new law amends the criminal code to establish criminal sanctions in cases that may be deemed “elder abuse.” The law clarifies that property given by someone suffering from dementia and other cognitive impairments is not given freely. Further, the law expands upon the crime of misuse of entrusted property to capture cases of elder abuse.

LD 548, *An Act to Amend the Laws Governing the Award of Spousal Support in Divorce Actions* – Public Laws 2013, [chapter 327](#).

This law authorizes the modification of spousal support orders issued after October 1, 2013. Further, the law clarifies that spousal support orders are subject to modification or termination when the recipient has entered into a mutually supportive relationship that is the functional equivalent of marriage with another person for at least 12 months during a period of 18 consecutive months.

LD 581, *An Act to Amend the Laws Governing Service of Process in Eviction Actions* – Public Laws 2013, [chapter 135](#).

This new law authorizes service of process by both mailing and posting the summons and complaint in an eviction action by the plaintiff, after at least three good faith efforts on three different days have been made to serve the defendant in hand. This new method of service of process is scheduled to sunset on September 1, 2016.

LD 640, *An Act Regarding Legal Representation in Certain Eviction Actions* – Public Laws 2013, [chapter 134](#).

This new law creates an exception to Maine unauthorized practice of law statute to allow members of certain limited liability companies to represent that limited liability company in a forcible entry and detainer action. This law is scheduled to sunset on September 1, 2016.

LD 725, *An Act to Implement the Recommendations of the Judicial Compensation Commission* – [Carried Over](#).

This funding bill, which has been carried over to the next legislative session, would implement the recommendations of the Judicial Compensation Commission. This bill proposes providing Judges and Justices with an increase in pay equivalent to recently foregone cost of living increases.

LD 744, *An Act to Extend the Statute of Limitations on Certain Civil Professional Negligence Suits* – Public Laws 2013, [chapter 329](#).

This new law establishes a six-year statute of limitations for professional negligence claims against certain mental healthcare professionals who allegedly engaged in sexual acts with their patient or client. The law is scheduled to sunset on July 1, 2017.

LD 852, *An Act to Amend Certain Provision of Law Affecting the Judicial Branch* – Public Laws 2013, [chapter 159](#).

This new law is the Judicial Branch’s “technical corrections” bill, advancing a number of minor changes to existing statutes. Specific changes under this law are: (1) authorizing the Branch to use fees from the sale of publications or forms to fund forms and information technology; (2) combining the judicial divisions of Northern Penobscot and Central Penobscot into Northern and Central Penobscot; (3) authorizing the District Court to employ retired family law magistrates; (4) modifying reporting dates to the Legislature from January 15th to February 15th; (5) modifying the meeting schedule of the Maine Criminal Justice Sentencing Institute allowing it to meet only when funding has been allocated for that purpose; and (6) requiring attorney’s fees for the defense of appeals by the State be paid by the Maine Commission on Indigent Legal Services, provided the fees do not exceed Commission rates.

LD 872, *An Act to Improve the Quality of Guardian ad litem Services for the Children and Families of Maine* – Public Laws 2013, [chapter 406](#).

This new law creates additional oversight of guardians *ad litem* in cases involving children through a number of different avenues. The law directs the Judicial Branch to roster, collect information on and establish standards of conduct for guardians *ad litem*. The law also requires orders appointing guardians *ad litem* to define the role of the guardian and to specify fees and payment information. Under the new law a complaint process for guardians *ad litem* is established. The Judicial Branch is directed to report the status of implementation of this new law to the Legislature by February 15, 2014 and the law is scheduled to sunset on October 1, 2017.

LD 912, *An Act to Provide Another Alternative to the Civil Order or Arrest Process* – Public Laws 2013, [chapter 150](#).

This new law allows a judgment creditor to request that the court issue an order for appearance as an alternative means of enforcing a debtor’s failure to appear in court after having been served with a disclosure subpoena. This alternative is scheduled to sunset on February 15, 2016.

LD 1377, *An Act to Protect Cellular Telephone Privacy* – Public Laws 2013, [chapter 402](#).

This new law is one of a few privacy laws enacted this legislative session. It prohibits government entities from obtaining information communicated using a cellular telephone or other portable electronic device from a service provider without a warrant, subject to certain exceptions. This new law also imposes a notification requirement on a government entity when it does obtain information from a covered device, requiring notification of the owner or user within three days, subject to certain exceptions. Finally, this new law provides a private right of action to persons damaged by violations of these new requirements.

LD 1469, *An Act to Ensure Ethical Standards for Court Reporters* – Public Laws 2013, [chapter 298](#).

This new law establishes ethical duties of court reporters relating to conflicts of interest that may apply to court reporters. The law also addresses the equal application of court reporting fees to all parties to a legal proceeding.

General

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LD 633, *An Act to Grant the Commissioner of Health and Human Services and the Commissioner’s Designees the Independent Authority to Issue Adjudicatory Subpoenas* – Public Laws 2013, [chapter 202](#).

This new law grants to the Commissioner of Health and Human Services (and his or her designees) the power to issue administrative subpoenas for adjudicatory proceedings.

LD 934, *An Act to Amend the Laws on Extended Warranties for Used Cars to Make Terms of Coverage Transparent* – Public Laws 2013, [chapter 292](#).

Amending the existing statute regarding extended warranties for used cars, this new law requires dealers disclose in writing when the extended warranty begins and ends.

LD 1068, *An Act to Prevent the Reduction in Adoption Subsidy after an Agreement has been Signed by the Prospective Adoptive Parents and the Department of Health and Human Services* – Public Laws 2013, [chapter 411](#). **This emergency law became effective on July 10.**

This new law prevents the Department of Health and Human Services from reducing adoption payments to adoptive parents once an adoption assistance payment agreement is signed by the prospective adoptive parents. The enactment of the law is in reaction to a recent statutory reduction in adoption assistance payments.

LD 1283, *An Act to Amend the Laws Governing Animal Trespass* – Public Laws 2013, [chapter 348](#).

Amending existing law regarding the penalties that apply to violations of the animal trespass law, this new law increases fines for repeated violations, clarifies restitution provisions and establishes a process by which animals may be forfeited by repeated violators.

LD 1388, *An Act to Clarify Civil Liability of Persons Making False Claims to the Department of Health and Human Services* – Public Laws 2013, [chapter 235](#).

This new law amends existing law regarding civil liability for false claims to the Department of Health and Human Services. Under the law, claims must be made knowingly and false documents must be material to the false claim for civil liability to attach.

LD 1493, *An Act to Revise the Laws Concerning Criminal History Record Information and Intelligence and Investigative Information* – Public Laws 2013, [chapter 267](#).

This new law substantially revises Maine's laws regarding access to criminal history and investigative information. The primary thrust of the law is to provide for separate treatment of criminal history record information and intelligence and investigative record information – both of which were treated in a consolidated manner before this new law. Additionally, the law sets forth procedures for the dissemination of juvenile intelligence and investigative record information for State agencies.

LD 1516, *An Act to Allow Certain Military Personnel to Administer Oaths and Perform the Duties of a Notary Public* – Public Laws 2013, [chapter 178](#).

This new law allows certain officers in the state military forces to administer oaths for the purpose of military justice and administration. The law also provides that judge advocates and paralegals serving in the state military forces have the powers of a notary public to perform notarial acts for members of the state and federal military and their spouses.

Real Estate

The Legislature produced only a few laws related to Real Estate. Two of the laws relate to landlords and tenants, one with respect to unpaid utility bills by the tenant, LD 215, and the other relating to radon testing of rental property, LD 328, which is a bit more complicated. In addition, the Short Form Deeds Act was amended in response to a Supreme Judicial Court decision to clarify that conveyances and reservations are to convey or reserve a fee simple interest unless a different intention is expressed in the deed, LD 424.

Of interest to mobile home owners, a new law defines when a mobile home becomes residential real property. Finally, the document filing and copying fees for county registries of deeds was increased in a vetoed bill that was overridden by the Legislature.

If you have a question about any of the new laws summarized in the Real Estate 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](#): [John D. Delahanty](#) - 207.791.1222; [Andrea C. Maker](#) - 207.629.5928; [Avery T. Day](#) - 207.791.1157.

Landlord/Tenant

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LD 215, *An Act to Protect Landlords When Tenants Fail to Pay Utility Bills* - Public Laws 2013, [chapter 250](#).

This new law requires a utility company servicing residential real estate to enter into an agreement with the landlord, at the landlord's request, providing for the automatic transfer of service to the landlord's name should transmission or distribution service otherwise be disconnected. The utility company must provide notice to landlord within 72 hours of the transfer and may charge a fee for the transfer of service.

LD 328, *An Act Relating to Radon Testing and Disclosure to Tenants* - Public Laws 2013, [chapter 324](#).

Amending existing law related to radon testing and mitigation in residential rental buildings, this new law requires a landlord to test for radon by March 1, 2014 and every 10 years thereafter but only upon request by a tenant and only if a mitigation system is not in place. Landlords must disclose test results, 1) prior to renting; 2) to existing tenants within 30 days of receiving results; and 3) to DHHS within 30 days of receiving results. Although testing is required upon request, the law eliminates the requirement to mitigate. The law allows tenants to conduct radon tests, and upon notification to the landlord of a result greater than 4.0 picocuries of radon per liter of air, the landlord must disclose per above or conduct its own test. A landlord's failure to disclose test results or falsification of test results is considered a breach of the warranty of habitability under the law. If radon test results exceed 4.0 picocuries of radon per liter of air, a landlord or tenant may terminate the lease with 30 days' notice per existing law. A landlord may not retain a security deposit for a termination based on radon test results. Finally, a tenant's assertion of rights under this law creates a rebuttable presumption of retaliation against the tenant if a landlord brings an eviction action against the tenant.

LD 581, *An Act to Amend the Laws Governing Service of Process in Eviction Actions* - Public Laws 2013, [chapter 135](#).

This new law authorizes service of process by both mailing and posting the summons and complaint in an eviction action by the plaintiff, after at least three good faith efforts on three different days have been made to serve the defendant in hand. This new method of service of process is scheduled to sunset on September 1, 2016.

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LD 640, *An Act Regarding Legal Representation in Certain Eviction Actions* – Public Laws 2013, [chapter 134](#). This new law creates an exception to Maine unauthorized practice of law statute to allow members of certain limited liability companies to represent that limited liability company in a forcible entry and detainer action. This law is scheduled to sunset on September 1, 2016.

General

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LD 424, *An Act to Amend the Short Form Deeds Act* – Public Laws 2013, [chapter 90](#). Forms Deeds Act is amended to provide that a conveyance or reservation must be construed to convey or reserve a fee simple interest in the real estate unless a different intention is clearly stated in the deed. The new law provides guidance for the clear statement of intent when the deed language: 1) specifies an interest other than an estate in fee; 2) limits the duration of the interest; or 3) explicitly restricts the interest to the person or persons to whom it is conveyed or reserved. This rule of construction applies regardless of whether technical words of inheritance are omitted, even if they appear elsewhere in the same instrument.

LD 559, *An Act to Change Document Filing and Copying Fees for County Registries of Deeds* – Public Laws 2013, [chapter 370](#).

Vetoed by Governor but overridden by the Legislature, this new law increases the recording fees from \$13 for the first record page, plus \$2 for each additional page and a \$1 fee for each name in excess of four to be indexed, as well as a \$3 surcharge, to \$19 for the first record page, with no changes to the additional page, name indexing and surcharge fees. Up to 500 digital images and abstracts may be obtained from the Registry per person or entity per calendar year for no charge, and a fee of fifty cents per image or abstract obtained in excess of 500 per will be charged. No changes have been made to the fees charged for acquiring paper copies of records from the Registries. A fee of 5 cents per image or electronic abstract must be paid for downloads in excess of 1000 or more consecutive electronic images or abstracts from Registry websites.

LD 854, *An Act to Clarify When a Manufactured Home Becomes Residential Real Property* – Public Laws 2013, [chapter 125](#).

Amending the law governing manufactured housing, this new law clarifies that manufactured housing for which no certificate of title has been issued is considered real property when it is “permanently affixed” to the real property of the owner of the manufactured housing. In addition, no certificate of title is required for manufactured housing as long as it is permanently affixed to real property owned by the owner of the manufactured housing within 30 days of sale.

LD 1177, *An Act to Implement the Recommendations from the Discontinued and Abandoned Roads Stakeholder Group* - [Carried Over](#).

Resolves 2011, chapter 120 directed the Department of Agriculture, Conservation and Forestry to convene a stakeholder group to review laws and policies related to discontinued and abandoned roads. LD 1177, which has been carried over to the next legislative session, proposes to implement the recommendations of the stakeholder group. This legislation would abolish the current presumption that a public easement is retained in a discontinued road unless otherwise stated in the discontinuance order. Instead, to retain the public easement after discontinuance, the town would be required to vote affirmatively to retain the easement and assume liability and responsibility for the easement to the extent of its use. If the town failed to maintain the public easement for two years, the public easement would be discontinued. If a municipality discontinued a town way, the bill would require that an easement “must be given” to any property owner requiring the easement to access their property. Finally, starting January 1, 2016, municipalities could discontinue or abandon a town way only by affirmative vote and would be required to prepare a list of all town ways to be kept in repair by public funds. Any town way not included on the list by January 1, 2016 would be discontinued and the public easement extinguished. Abutters would have two years from the publication of the list to file a claim for an interest in the way pursuant to 23 M.R.S.A. Section 3027-A(2).

State and Local Tax / Federal Tax

With respect to tax legislation, this session was more notable for what was not enacted, than what was. A bipartisan, so-called “gang of legislators” proposed sweeping tax reform, which would have lowered income tax rates, broadened the income tax base, raised sales tax rates, broadened the sales tax base and reduced property taxes on many Maine residents. The proposal received a great deal of press, but members of both Democratic and Republican leadership failed to embrace it. The session did produce a number of more incremental changes. To close the budget gap, sales tax rates will incur a modest and temporary increase, individuals will be limited in their ability to take itemized deductions, the sales tax will apply to some electronic transactions as well as the sale of periodicals, and the Legislature is tasked with reducing the state’s tax expenditures by at least \$40,000,000, LD 1509. Also, several changes were made to help spur economic development. The Legislature voted to re-authorize the seed capital tax credit (although at a reduced level), and at publication time, the bill, LD 743 awaits the Governor’s action. The new markets capital investment program was clarified to ensure that it can apply to two different projects owned by affiliated companies, LD 1109, and the sales tax exemption for aircraft and aircraft parts was extended to support the state’s growing aircraft businesses, LD 279. Finally, following the lead of many other states, the Legislature passed a law establishing certain presumptions that purportedly out-of-state sellers are engaged in business in Maine and therefore are required to collect and remit sales tax on sales to persons in Maine, LD 346.

If you have a question about any of the new laws summarized in the State & Local Tax/Federal 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: John D. Delahanty - 207.791.1222; Andrea C. Maker - 207.629.5928; Avery T. Day – 207.791.1157.

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LD 278, *An Act to Provide Greater Access to Capital for Certain Businesses through Assignment of Benefits under the Business Equipment Tax Reimbursement Program and the Maine Employment Tax Increment Financing Program* - Public Laws 2013, [chapter 67](#).

Under this new law, a business expecting to receive payments under the Business Equipment Tax Reimbursement Program and the Employment Tax Increment Financing Program may assign those benefits to secure loans from the Finance Authority of Maine. The State Tax Assessor may also make payments under the Programs directly to the Authority.

LD 279, *An Act to Sustain Maine’s Aviation Industry by Extending the Exemption from Sales and Use Tax for Aircraft and Parts* – Public Laws 2013, [chapter 379](#).

The sales and use tax exemption for aircraft and aircraft parts was extended through June 2021 in the biennial budget legislation. Subsequent to the enactment of the budget, this new law was passed to extend the exemption through June 2033.

LD 346, *An Act Concerning the Collection of Sales Tax by Any Business Making Sales to Persons in Maine* - Public Laws 2013, [chapter 200](#).

This new law establishes presumptions regarding out-of-state sellers of goods or services. First, it is presumed that a seller is engaged in business in Maine and is therefore required to collect and remit sales and use tax in purchases made by persons in Maine, if (1) the seller’s affiliate has substantial presence in the State or (2) a person with substantial presence in the State engages in certain activities such as selling substantially similar products, using the seller’s trademarks, or maintaining an office to facilitate delivery. Second, a seller will be presumed to be engaged in business in Maine and required to collect and remit sales and use tax if the seller has an agreement with a person in the State to refer customers and those sales generate at least \$10,000 of revenue annually.

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LD 430, *An Act to Amend the Laws Regarding Who May Appeal Reconsideration Decision of the Maine Board of Tax Appeals* - Public Laws 2013, [chapter 45](#). This emergency law was effective on April 22.

The Legislature changed the threshold for an appeal to the Maine Board of Tax Appeals from \$5,000 to \$1,000 in this new law. The law also provides that it is not unauthorized practice of law for a certified public accountant, enrolled agent, or enrolled actuary to represent a taxpayer before the Board.

LD 719, *An Act to Ensure Access to Information in the Property Tax Abatement Process* - Public Laws 2013, [chapter 182](#).

This new law requires that, in acting on a property tax abatement request, municipal assessors must provide the reason or reasons for approving or denying the request.

LD 743, *An Act to Extend and Improve the Maine Seed Capital Tax Credit Program* - [Enacted and Pending Governor's Action](#).

The Seed Capital Tax Credit, which recently ran out of funding, has been extended; however, the amount of seed capital tax credit certificates is limited to \$675,000 in 2014, \$4,000,000 in 2015 and \$5,000,000 in 2016 and beyond. The new law also makes the amount of the tax credit the same for individual investors and venture capital funds, clarifies that producers of value-added natural resource products are eligible, removes the ambiguous eligibility for businesses that "bring capital into the State," specifies that eligible businesses must certify that the investment is necessary to allow the business to create or retain jobs in the State, and makes various other technical changes.

LD 915, *An Act to Expand the Sales Tax Exemption for Certain Public Libraries to include Sales by Those Libraries or their Supporting Organizations* - Public Laws 2013, [chapter 420](#).

This new law makes sales by free public libraries and their nonprofit supporting organizations exempt from sales tax if the proceeds benefit the library.

LD 936, *An Act to Authorize Municipalities to Impose Service Charges on Tax-Exempt Property Owned by Certain Nonprofit Organizations* - [Carried Over](#).

This bill would authorize municipalities to impose service charges on owners of certain real property that is currently exempt from property tax. The charges would be based on the actual cost of providing municipal services to the property and the persons using the property.

LD 988, *An Act to Amend the Tax Laws* - Public Laws 2013, [chapter 331](#).

This new law makes several technical and conforming changes to the state's tax laws. It also amends the law applying the sales and use tax to casual sales of certain items, such as automobiles, and to exempt sales where the purchaser is a business entity and the seller is a majority owner of the purchaser. It also makes certain changes to the calculation of the state's estate tax, including limiting the value of gifts to be included in such calculation to those made within one year prior to death (for estates of decedents who die after 2012).

LD 996, *An Act to Improve the Accuracy of Fuel Tax Reporting* - [Carried Over](#).

This bill would allow taxpayers the option of using net gallons, which take temperature into account, when calculating inventory taxes on internal combustion engine fuel and special fuel instead of taking the allowance for certain losses. This would allow taxpayers to more accurately account for fuel lost due to shrinkage during cold weather periods.

LD 998, *An Act to Provide Consistency in the Application of the Property Tax Exemption for Religious Organizations* - [Carried Over](#).

This bill would expand the property tax exemption for property owned by religious organizations to include all real and personal property owned and occupied or used solely for its own purposes by a religious organization in connection with religious worship. Also, it would remove the \$6,000 limitation on the exemption for personal property.

LD 1109, *An Act to Clarify the Maine New Markets Capital Investment Program Tax Credit* - Public Laws 2013, [chapter 75](#).

This law amends Maine's New Markets Capital Investment Program to clarify that the limitation on the amount of financing a qualified business can receive is determined on a per-project basis, rather than on a per-borrower basis.

LD 1120, *An Act to Improve Maine's Tax Laws* - [Carried Over](#).

This concept bill (the actual legislative text has not been written) proposes to improve the tax laws by reducing the use of offshore tax havens and establishing a task force to analyze the State's tax expenditures with the goal of achieving \$30,000,000 of savings.

LD 1402, *An Act to Amend the Taxes Imposed on Alcohol and Lodging* - [Carried Over](#).

This bill would repeal the excise taxes and premiums imposed on spirits, wine and malt liquor. It would increase the sales tax imposed on lodging from 7% to 9% and on liquor sold for consumption off premises from 7% to 9%. The bill would also reduce the exemption of casual rentals of living quarters from less than 15 days to less than 8 days.

LD 1463, *An Act to Examine Best Practices Relating to Tax Expenditures* - [Carried Over](#).

This concept bill (the actual legislative text has not been written) would direct the Joint Standing Committee on Taxation to examine various approaches to tax expenditures, including placing a cap on them.

LD 1570, *An Act to Delay the Implementation of Changes to the Business Equipment Tax Exemption* - Public Laws 2013, [chapter 385](#). **This emergency law became effective on July 1.**

This law delays by one year the effective date of the property tax reporting requirements passed in the biennial budget legislation related to taxpayers which own property exceeding 2 percent of the total valuation of the municipality. Taxpayers failing to meet the reporting requirements are ineligible for the business equipment tax exemption.



PRACTICE AREAS

- Admiralty & Maritime
- Antitrust
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- Federal Tax
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- Immigration
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- Litigation
- Privacy & Data Security
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- **3** have served as Special Master to the United States Supreme Court; and
- **2** have served as Chief Justice of the Maine Supreme Judicial Court.

Our attorneys also serve in many prominent roles within the legal community, including as immediate past president of the Boston Bar Association, former head of the American College of Trial Lawyers, and former Independent Counsel investigating allegations against the U.S. Secretary of Labor under President Clinton.

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