

**STATE OF MAINE
ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE
FIRST REGULAR SESSION
SENATE ADVANCED JOURNAL AND CALENDAR**

Wednesday, August 2, 2017

SUPPLEMENT NO. 1

COMMUNICATIONS

(2-1) The Following Communication:

S.C. 578

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

1 August 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 512, "Resolve, To Establish the Committee To Study the State's Response to the Commercial Sexual Exploitation of Youth."

This bill seeks to form yet another legislative committee to produce yet another report that will do nothing to make real progress in the fight against sexual exploitation. Further, the Legislature failed to fund the proposed committee. This is a sad attempt by do-nothing legislators to go home to their districts and pretend to have tackled the issue.

We need to give law enforcement and prosecutors the proper tools to help protect young people against sexual exploitation. This bill's original intent to prevent minors from being charged with the crime of engaging in prostitution would have limited the state's ability to protect future generations. This bill is unnecessary, and I cannot support it.

For these reasons, I return LD 512 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-2) The accompanying Bill "An Act To Prohibit a Person under 18 Years of Age from Being Charged with the Crime of Engaging in Prostitution"

S.P. 173 L.D. 512

(2-3) The Following Communication:

S.C. 579

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

1 August 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 517, "An Act To Amend Principles of Reimbursement for Residential Care Facilities."

One of the goals of my administration has been to right-size reimbursement rates and to insert some common sense into state Medicaid regulation and reimbursement structure. Over the last six-and-a-half years we have made significant progress, and we look to continue that progress through the duration of my final term.

While I understand the desire of residential care facilities to have the broader authority and flexibility outlined in this proposal, I remain concerned about one specific provision. This proposal outlines in statute that the costs resulting from regulatory changes made at any level of government be considered allowable costs and reimbursed by the state accordingly.

It makes sense that new regulation created by the state and federal government be considered an allowable cost as it relates to residential care reimbursement. The state and federal governments pay the bills; there is a direct correlation between their regulatory expectations and the rate of reimbursement. However, it does not make sense that local county or municipal governments can approve burdensome or costly regulations and expect state and federal reimbursement to mitigate their irresponsible decision making. The Maine people need to hold every level of their government accountable—including their counties and towns.

For this reason, I return LD 517 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-4) The accompanying Bill "An Act To Amend Principles of Reimbursement for Nursing Facilities and for Residential Care Facilities"

S.P. 178 L.D. 517

(2-5) The Following Communication:

S.C. 580

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

1 August 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 721, "An Act To Mandate the Reporting of a Planned Act of Terrorism by a Person with Knowledge of That Plan."

This bill represents a dramatic shift in public policy by criminalizing moral obligation. Generally speaking, most people are under no legal obligation to report a crime, whether they knew about it in advance or found out about it after the fact. This bill creates a new strict-liability felony crime if a person has knowledge of another person's plan to commit a crime and fails to report such to law enforcement.

I have serious concerns about the potential unintended consequences this bill's vague language may reap. In particular, I believe this bill should provide immunity to the person who reports a terrorist plot.

For these reasons, I return LD 721 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-6) The accompanying Bill "An Act To Mandate the Reporting of a Planned Act of Terrorism by a Person with Knowledge of That Plan"

S.P. 238 L.D. 721

(2-7) The Following Communication:

S.C. 581

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

1 August 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 808, "An Act To Restore Community Support Services for Adults with Mental Illness."

As a result of the Department of Health and Human Services' review of Section 17, it was determined that for members with conditions such as depression, post-traumatic stress disorder, or anxiety, Section 17 services were very often not clinically appropriate. In making this determination, the Department relied on objective sources, including guidance published up by the National Institute for Mental Health, which recommends other treatments that are available under a separate section of Medicaid policy (Section 65).

In an effort to ensure Section 17 services were directed towards those for whom the services were clinically appropriate, the Department made changes to the clinical criteria to align them with evidence-based treatment. Specifically, the Department required that individuals with diagnoses other than schizophrenia or schizoaffective disorder submit clinical documentation supporting the need for Section 17 services.

This bill would reverse many of the changes made by the Department last year and would force the State to provide reimbursement for treatment that is not clinically appropriate. Specifically, it would require all members with post-traumatic stress disorder or bipolar disorder qualify for all Section 17 services without regard to functional ability or actual demonstrated need. The idea that our State would endorse mental health treatment that is not clinically appropriate is unconscionable.

For the reasons, I return LD 808 unsigned and vetoed. I strongly urge the Legislature to support clinically appropriate treatment for MaineCare members and sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-8) The accompanying Bill "An Act To Restore Community Support Services for Adults with Mental Illness"

S.P. 253 L.D. 808

(2-9) The Following Communication:

S.C. 582

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

1 August 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 891, "An Act to Support the Professional Development of Principals in Maine Schools."

As I travel the state, I often hear teachers and local officials complain about unfunded mandates. This change to require mentoring programs is a mandate, plain and simple. While mentoring is an excellent idea for leaders, the legislature must stop being so dishonest about increasing costs for local districts without providing funding.

I invite the legislature to work with the Maine Department of Education as it updates the rules concerning performance evaluation and professional growth to address mentoring and coaching.

For these reasons, I return LD 891 unsigned and vetoed. I urge the legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-10) The accompanying Bill "An Act To Support the Professional Development of Principals in Maine Schools"

S.P. 291 L.D. 891

(2-11) The Following Communication:

S.C. 583

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

1 August 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 949, "An Act Regarding Telehealth."

Technological advances in recent years have led to broader development of telehealth as an available tool for providing health care. Telehealth services have been found to be of particular value for a rural state like Maine, and we have seen rapid growth of telehealth services. Our existing telehealth policies are serving Mainers well.

This bill is a solution looking for a problem. Maine law now prohibits health insurance carriers from denying coverage for telehealth services if the service would be required to be provided in person. Coverage must be consistent with that provided for in-person services and consumers' out-of-pocket costs (copayments, coinsurance and deductibles) cannot exceed those that would apply to inpatient services. The bill rephrases those requirements and adds several unnecessary and expansive clarifications.

In addition to these unnecessary provisions, the expansive nature of the clarifications pose the significant possibility of increased costs for insurers that will ultimately be felt by all health insurance ratepayers, including the State. It is impossible to truly determine the extent of additional costs that coverage of these services might create, but those increased costs will result in increased insurance premiums for already an overburdened healthcare system. Maine cannot afford to add yet another additional cost to health insurance coverage.

For these reasons, I return LD 949 unsigned and vetoed. I urge the legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-12) The accompanying Bill "An Act Regarding Telehealth"

S.P. 304 L.D. 949

(2-13) The Following Communication:

S.C. 584

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

1 August 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 952, "An Act To Ensure Access to Opiate Addiction Treatment in Maine."

I understand the drug-replacement therapy methadone has been recognized by some experts as the best evidence-based substance abuse treatment option available. But, like many people outside the treatment community, I believe that simply replacing one drug with another doesn't actually solve the problem. Families impacted by addiction need normalcy and freedom—daily trips to a Methadone clinic year after year are not a good way to achieve that normalcy.

My administration recently added significant requirements to its Medicaid program to ensure greater accountability for methadone treatment. It makes no sense to pay for treatment that is simply perpetuating an addiction. Taxpayer dollars should be dedicated to treatment modalities that keep people moving toward true recovery. While the state's reforms may not be perfect, we are heading in the right direction, and these reforms will continually be assessed for increased opportunities to help Mainers succeed.

This bill, among other things, would "allow" the Department of Health and Human Services to amend their rules to increase the reimbursement rate for methadone treatment. I understand this does not provide an actual increased rate; however, until we have been able to take stock of the new regulations, I am not willing to open the door to a possible rate increase. When my team at DHHS can assure me that methadone treatment is taking place in a truly clinical setting, along with the accountability of a clinical team, I would be glad to have this conversation again. I want to pay for treatment that works!

For these reasons, I return LD 952 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-14) The accompanying Bill "An Act To Ensure Access to Opiate Addiction Treatment in Maine"

S.P. 307 L.D. 952

(2-15) The Following Communication:

S.C. 585

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

1 August 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1044, "An Act to Amend the Laws Governing Eligibility for Disability Retirement Benefits."

This bill creates a problematic precedent that I cannot support. First, it establishes a precedent for providing certain retirement benefits to former employees not otherwise eligible for those benefits. While some in the legislature might be nonchalant about extending the state's obligation to public-sector employees beyond the scope of employment, I make no such mistake.

If this bill is allowed to become law, it will only be a short time before other former employees are back before the legislature with new theories about other benefits they believe they are entitled to. We should not open this door with this new exception.

Further, this bill provides benefits to former employees who have settled claims with the state. Since I have been Governor, it has been my experience that the Office of the Attorney General regularly settles a wide range of claims that they could have prevailed on in court. While litigating can be expensive, the knee-jerk reaction in the Office of the Attorney General has been to settle quickly, even when the State of Maine has the law on our side and we are likely to prevail.

Therefore, I worry this bill creates a new incentive for employees to bring claims, which will likely result in a settlement, opening the aperture to many more former employees eligible for benefits as provided by this bill.

For these reasons, I return LD 1044 unsigned and vetoed. I urge the legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-16) The accompanying Bill "An Act To Amend the Laws Governing Eligibility for Disability Retirement Benefits"

S.P. 346 L.D. 1044

(2-17) The Following Communication:

S.C. 586

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

1 August 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1089, "An Act To Prohibit the Use of Handheld Phones and Devices While Driving."

While I believe distracted driving is a serious problem in our society that needs to be addressed, this bill does not propose an adequate solution. In Maine, we already have a prohibition on texting while driving, and this bill simply seeks to expand that prohibition. People who text while driving are those who would do so regardless of the law.

For this reason, I believe we need to advance campaigns that raise public awareness of just how dangerous it is to text and drive. By promoting this public awareness, we can teach people the valid reasons why there is a prohibition on texting. I think this would be a much more effective method of addressing the distracted driving problem than simply fining those who use cell phones while operating motor vehicles.

For this reason, I return LD 1089 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-18) The accompanying Bill "An Act To Prohibit the Use of Handheld Phones and Devices While Driving"

S.P. 360 L.D. 1089

(2-19) The Following Communication:

S.C. 587

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

1 August 2017
The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1108, "An Act To Restore Public Health Nursing Services."

This bill is unnecessary and attempts to micromanage basic human resource functions at the Department of Health and Human Services. It is grounded in an artificial crisis meant to engender fear by insinuating that the entirety of the public's health and well-being rests on the shoulders of a very small fraction of a state agency workforce. It simply isn't true, and it isn't how public health operates or succeeds. Rather than arbitrarily requiring positions to be filled, the Legislature should be more concerned with the quality and productivity of our public health nursing force. There are several reasons why the Public Health Nursing Program is currently undergoing reform.

Deficiencies in the program have made it ineffective and in need of reform—adding more nurses won't address those deficiencies. Nurses should be working within the scope of their license and to their highest expertise, rather than responding to calls and doing work that should be handled by a community care worker or a social worker. Additionally, Maine's public health nursing program has historically not achieved the national standard of five visits per day, per nurse. Efforts to increase productivity have been making slow progress, but the program still only achieves an average of two visits per week, per nurse. Arbitrarily increasing the number of nurses does not acknowledge this underperformance and does nothing to ensure the added staff capacity is truly benefitting the public health of Maine people.

Inadvertently, the state has been competing with community services provided by the private sector for the same clients; this situation can be rectified through the use of integrated professionals and by working effectively with public-private partnerships. Refocusing the Public Health Nursing Program's efforts to ensure state nurses are doing only what state-employed nurses can do will increase the state's capacity to effectively impact some of the toughest public health challenges, like substance-addicted or -affected newborns. Again, adding more nurses to the program will only exacerbate this challenge.

Currently, the CDC is implementing reforms including:

1. Focusing the work of nurses on populations that truly need our help; substance-affected infants and mothers, medically fragile individuals with special needs, and those affected by infectious disease.
2. Building strong program leadership and encouraging champions of change within our workforce.
3. Putting nurses back in district offices instead of dispatching them from home.
4. Implementing an electronic health record system that links to the Health Information Exchange and other Maine CDC data systems that streamline documentation.
5. Using the new EHR to generate management reports on productivity, caseloads and response times.
6. Leveraging technology for direct observation of latent tuberculosis clients through remote medication adherence monitoring.
7. Training and exercising the PHN Emergency Preparedness Team.
8. Creating the Maternal and Child Health Network to include state and community health nurses, community health workers, social workers, home visitors, dieticians and other community-based providers.

The proponents of this bill provided anecdotes about the importance of public health nursing, but they provided no data to back up the need for additional staff. Arbitrarily adding staff to a program does nothing to directly improve quality or increase effectiveness of the work.

For these reasons, I return LD 1108 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-21) The Following Communication:

S.C. 588

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

1 August 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1170, "An Act To Reduce Youth Access to Tobacco Products."

This bill would change the legal age for purchase of tobacco products from 18- to 21-years-old. However, to avoid the true fiscal impact of the bill, it was amended to grandfather all who reach the age of 18 by July 1, 2018. This kind of legislative chicanery is not only irresponsible, but it will also contribute to a significant deficit in the next biennial budget.

The fiscally irresponsible aspect of the bill is reason enough to deserve my veto. But I am equally concerned about this attempt at "social engineering" by those who do not respect the rights and responsibilities our society vests in our citizens when they become 18. After World War II, President Eisenhower used his 1954 State of the Union Address to call for 18-year-olds to have the right to vote. Having commanded the troops in the war, he understood how unfair it was to those who had served our country and defended our liberties while being denied this fundamental right. In 1971, the 26th Amendment to the United States Constitution granted the full rights of citizenship to 18-year-olds.

In addition to the right to vote and serve in the military, our laws provide 18-year-olds the right to marry and divorce and make decisions about medical treatment. The responsibilities to pay taxes and be tried as adults if accused of a crime also come with turning 18. I cannot support legislation that denies the right to purchase a legal product to those who are otherwise treated as adults.

Those who advocate that this legislation would protect those under 18 from tobacco use ignore the U.S. Centers for Disease Control's surveys from 2011-2014, which provide evidence that four times as many high school students drink alcohol than smoke cigarettes. The fact that the legal age to purchase and consume alcohol is 21 everywhere in the country while the legal age to purchase tobacco is 18 in most of the country demonstrates this legislation will not achieve its stated purpose.

LD 1170 will simply increase the black market for tobacco products and push our Maine citizens between the ages of 18 to 20 into acquiring tobacco products through alternative sources.

Finally, this bill will hurt our Maine convenience and grocery stores, which will lose sales of tobacco and other products to neighboring New Hampshire. Our Maine retailers had a compliance rate of 95.52% for sales of tobacco products—the second best compliance rate in the nation, according to the FDA's inspections involving sales to minors. Clearly, our retailers are doing an outstanding job enforcing the current law.

I cannot support legislation that creates a competitive disadvantage for our small business owners, particularly those near the New Hampshire border. Therefore, I return LD 1170 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-22) The accompanying Bill "An Act To Reduce Youth Access to Tobacco Products"
S.P. 391 L.D. 1170

(2-23) The Following Communication:

S.C. 589

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

1 August 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1260, “Resolve, To Establish the Commission to Create a Plan to Enhance the Efficiency and Effectiveness of the Probate Court System.”

This bill establishes a commission to overhaul our probate court system, which was repealed by the people of Maine in 1967, and create a more efficient and effective court system. The commission is directed to focus on meaningful access to justice, promote judicial responsibility, adherence to the code of judicial responsibility and provide for qualified judges and professional staff. All of these conditions are currently being met by each and every probate court in the State of Maine. The probate judges and staff have continued to deliver exceptional service to the people of Maine.

Counties provide the funding for salaries of probate judges and staff, office space, court space, equipment and office supplies. The commission is comprised of 13 members. Only two members of the commission will represent the “interest of the counties.” Counties that shoulder a heavy burden in our probate court system are simply not adequately represented on this commission.

Finally, the Legislature failed to fund the commission. The commission may seek private or public funding contributions. If the commission cannot obtain private or public funding contributions, “no meetings are authorized.” If the Legislature was serious about creating a more efficient and effective probate court system, they should have funded the commission.

For these reasons, I return LD 1260 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-24) The accompanying Resolve, To Establish the Commission To Create a Plan for the Establishment of a Probate Court System with Full-time Judges

S.P. 423 L.D. 1260

(2-25) The Following Communication:

S.C. 590

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

1 August 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1263, "Resolve, To Increase Affordability of Safe Drinking Water for Maine Families."

This bill requires the state to bear the entire cost with no matching funds from local communities. This bill grows dependence on state government, and by only providing one year of funding, the bill establishes an expectation that this will be an ongoing expense for the state.

Further, the legislature has funded this bill by raiding the "Medical Use of Marijuana Fund," proving once again the legislature charges fees it knows it does not need in order to create slush funds for pet projects.

This is a dishonest bill that uses financial gimmicks to grow government dependence. For these reasons, I return LD 1263 unsigned and vetoed. I urge the legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-26) The accompanying Resolve, To Increase the Affordability of Safe Drinking Water for Maine Families

S.P. 426 L.D. 1263

(2-27) The Following Communication:

S.C. 591

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

1 August 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1485, “An Act Regarding MaineCare Coverage for Telehealth Services.”

Medicaid already reimburses for telehealth services and has a robust policy in place that is helping to ensure access to necessary health services. Telehealth services have seen recent growth, and providers and patients alike are benefiting from access to these services. This bill adds unnecessary clarifications and puts additional responsibilities on the administration with no additional funding.

Requiring the Department of Health and Human Services to conduct educational outreach to providers and MaineCare members on telehealth; allowing the Department to solicit and receive grants to establish broader telehealth infrastructure; requiring an annual report by the Department on the effect of telehealth on health care costs, quality and access; and establishing a 10-member advisory council that is required to regularly meet—these requirements are all unnecessary and burdensome. Not only is this bill an additional mandate on the state, it is also an overreach that does not acknowledge three separate branches of government.

For these reasons, I return LD 1485 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-28) The accompanying Bill "An Act Regarding MaineCare Coverage for Telehealth Services"

S.P. 515 L.D. 1485
