

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE**

**SECOND SPECIAL SESSION**  
**June 19, 2018 to September 13, 2018**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**DECEMBER 13, 2018**

**ONE HUNDRED AND TWENTY-NINTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 5, 2018 to June 20, 2019**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 2019**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Augusta, Maine**  
**2019**

the granting of a step therapy override exception determination.

C. Upon the granting of a step therapy override exception determination, the carrier or utilization review organization shall authorize coverage for the prescription drug prescribed by the prescriber.

D. A carrier or utilization review organization shall grant or deny a request for a step therapy override exception determination or an appeal of a determination within 72 hours, or 2 business days, whichever is less, after receipt of the request. If exigent circumstances, as described in section 4311, subsection 1-A, paragraph B, exist, a carrier or utilization review organization shall grant or deny the request within 24 hours after receipt of the request. The carrier shall provide coverage for the prescription drug prescribed by the prescriber during the pendency of the request for a step therapy override exception determination or an appeal of a determination. If a carrier or utilization review organization does not grant or deny the request within the time required under this paragraph, the exception or appeal is granted.

E. An enrollee may appeal a step therapy override exception determination.

F. This section does not prevent:

(1) A carrier or utilization review organization from requiring an enrollee to try a generic drug, as defined in Title 32, section 13702-A, subsection 14, or an interchangeable biological product, as defined in Title 32, section 13702-A, subsection 14-A, prior to providing coverage for the equivalent brand-name prescription drug; or

(2) A health care provider from prescribing a prescription drug that is determined to be medically necessary.

7. Rules. The superintendent may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. Application.** The requirements of this Act apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2020. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

**CHAPTER 296  
H.P. 933 - L.D. 1290**

**An Act To Increase  
Transparency with Regard to  
Pawnshops**

**Be it enacted by the People of the State of  
Maine as follows:**

**Sec. 1. 30-A MRSA §3962, sub-§3,** as amended by PL 1993, c. 59, §2, is further amended to read:

**3. List filed with law enforcement agency and regional tracking system.** ~~Before the 15th day of every month, the~~ Within 10 days of a transaction, a pawnbroker shall file with the law enforcement agency of jurisdiction submit to a regional property and recovery tracking system administered by a regional law enforcement support organization designated by the Department of Public Safety, Bureau of State Police, in a form acceptable to that agency the recipient, a summary report of the pawn transactions entered into during the preceding calendar month. transaction, including:

A. The name and address of the pawnbroker;

B. The date and time of the transaction;

C. The name, address, date of birth, telephone number, if any, and unique identifying number on the written proof of identification required under section 3971 of the consumer or seller; and

D. Information on every item involved in the transaction, including a description of the item, manufacturer, if known, serial number, if any, and amount of the loan or purchase price given for the item.

**Sec. 2. Effective date.** This Act takes effect July 1, 2020.

Effective July 1, 2020.

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**CHAPTER 297  
H.P. 966 - L.D. 1338**

**An Act To Protect Teachers  
from Unfair Evaluations**

**Be it enacted by the People of the State of  
Maine as follows:**

**Sec. 1. 20-A MRSA §13201, sub-§3,** as enacted by PL 2019, c. 132, §2, is amended to read:

**3. Termination upon elimination of a teaching position.** The right to terminate a contract, after due notice of 90 days, is reserved to the school board when changes in local conditions warrant the elimination of

the teaching position for which the contract was made. The order of layoff and recall is a negotiable item in accordance with the procedures set forth in Title 26, chapter 9-A. In any negotiated agreement, the criteria negotiated by the school board and the bargaining agent to establish the order of layoff and recall ~~must~~ may include the teacher's effectiveness rating pursuant to chapter 508 as a factor and may also include, but may not be limited to, seniority.

**Sec. 2. 20-A MRSA §13703**, as enacted by PL 2011, c. 635, Pt. A, §3, is repealed and the following enacted in its place:

**§13703. Use of effectiveness rating; grievance**

**1. Use of effectiveness rating.** A superintendent may use effectiveness ratings of educators to inform strategic human capital decision making, including, but not limited to, decision making regarding recruitment, selection, induction, mentoring, professional development, compensation, assignment and dismissal.

**2. Just cause for nonrenewal.** Subject to appeal or grievance under the terms of an applicable collective bargaining agreement, receipt of summative effectiveness ratings indicating that a teacher is ineffective for 2 consecutive years constitutes just cause for nonrenewal of a teacher's contract as long as there is a reasonable basis in fact for the effectiveness ratings, the evaluation process leading to the effectiveness ratings has been performed in a manner reasonably consistent with the approved system and department rules and the effectiveness ratings are not the result of bad faith.

**3. Appeal or grievance.** Except as provided in subsection 2, a teacher does not have the right to an appeal or grievance of a summative effectiveness rating unless the summative effectiveness rating is used by the teacher's employer as a basis for disciplinary action. When a summative effectiveness rating is used as the sole basis for disciplinary action and there is an appeal or grievance under the terms of an applicable collective bargaining agreement of that disciplinary action, the standard applied to the summative effectiveness rating is the same as for nonrenewal under subsection 2.

**4. Opportunity to respond.** A teacher may provide a written response to any summative effectiveness rating issued to the teacher. If a teacher provides a written response, the response must be attached to and made a part of that teacher's summative effectiveness rating.

See title page for effective date.

**CHAPTER 298**

**H.P. 855 - L.D. 1181**

**An Act To Reduce Electricity  
Costs through Nonwires  
Alternatives**

**Be it enacted by the People of the State of  
Maine as follows:**

**Sec. 1. 35-A MRSA §102, sub-§13**, as amended by PL 2009, c. 539, §1, is further amended to read:

**13. Public utility.** "Public utility" includes every gas utility, natural gas pipeline utility, transmission and distribution utility, telephone utility, water utility and ferry, as those terms are defined in this section, and each of those utilities is declared to be a public utility. "Public utility" does not include the operation of a radio paging service, as that term is defined in this section, or mobile telecommunications services unless only one entity or an affiliated interest of that entity, as defined in section 707, subsection 1, paragraph A, exclusively controls the use of the radio frequency spectrum assigned by the Federal Communications Commission to provide mobile service to the service area. "Public utility" includes a smart grid coordinator as defined in section 3143, subsection 1, paragraph B.

Nothing in this subsection precludes:

- A. The jurisdiction, control and regulation by the commission pursuant to private and special act of the Legislature;
- B. The commission's jurisdiction and control over and regulation of a public utility that provides, in addition to other services, radio paging service or mobile telecommunications services;
- C. The commission's jurisdiction and control over and regulation of basic exchange telephone service offered by a provider of mobile telecommunications services if, after investigation and hearing, the commission determines that the provider is engaged in the provision of basic exchange telephone service; and
- D. Negotiations for, or negates agreements or arrangements existing on the effective date of this paragraph relating to, rates, terms and conditions for interconnection provided by a telephone utility to a company providing radio paging or mobile telecommunications services.

**Sec. 2. 35-A MRSA §116, sub-§9** is enacted to read:

**9. Public Advocate special assessment.** Each investor-owned transmission and distribution utility subject to assessment under this section is subject to an additional annual assessment on its intrastate gross operating revenues to produce sufficient revenue for