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Resolve, Regarding Legislative Review of Portions of ConnectME Authority, Chapter 101, a Major Substantive Rule of the Governor's Office

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1 Adoption. Resolved: That final adoption of portions of ConnectME Authority, Chapter 101, a provisionally adopted major substantive rule of the Governor's Office that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the following changes are made:

1. Definition of broadband service provider. That portion of the rule designated Section 2, subsection D must be amended to provide that the definition of broadband service provider does not include a provider of commercial mobile service as defined under 47 United States Code, Section 332(d);

2. Mapping requirement. That portion of the rule designated Section 3, subsection B must be amended to provide that a mobile communications service provider that is contributing to the ConnectME Fund is required to file with the ConnectME Authority the coverage maps and service description information designated in Section 3, subsection B, paragraphs 1, 2 and 3 of the rule, but a mobile communications service provider that is not contributing to the ConnectME Fund is not required to file that information; and

3. Application process. That portion of the rule designated Section 6, subsection D must be replaced to provide that, within 90 days of the effective date of the rule, the ConnectME Authority is required to establish an application process that, at a minimum, includes the following provisions:

A. An application that, at a minimum, includes description of the area proposed to be served by the project and sufficient information to establish that it is an unserved or underserved area; a description of the proposed project, including public-private partnerships that have been established, evidence that the private partner in the project is eligible to receive funding from the authority, the type of service to be provided and, in the case of broadband service, the upstream and downstream speeds of the service to be provided, an estimate of the time required to complete the proposed project,

the percentage distribution of households and businesses within the area to be served by the project and the estimated price per customer of the service to be provided by the proposed project; the total amount of funding requested from the authority; the applicant's financial commitment to the project in addition to the funding requested from the authority; the estimated number of customers who will directly benefit from the project who are currently unserved or underserved; and evidence of community support for the proposed project, which may include letters or signatures of residents or businesses located within the area of the proposed project; and

B. An application evaluation process that provides that the authority concurrently evaluate all applications submitted during a particular application period that has been set by the authority; that the scoring of applications is based on a 100-point scale with the following 4 scoring categories: cost-benefit, community support, project scope and project value; that the cost-benefit category is worth at least 33 points; that a project with a total score of less than 50 points may not be funded; that a project that serves an underserved area may only be funded if funds are available after all eligible applications for projects to serve unserved areas have been funded; that the cost-benefit scoring is based on relevant factors, including, but not limited to, the amount of funding requested from the authority per customer eligible to be served by the project, with lower funding per customer receiving a higher cost-benefit score; that the community support score is based on relevant factors, including, but not limited to, evidence of community support for the project and the percentage of a municipality that will be served by the proposed project; that the score for the project scope is based on relevant factors, including, but not limited to, the number of customers to be served by the project, the type and, when relevant, the speed of service to be offered by the project and the applicant's financial commitment to the project; and that the score for project value is based on relevant factors, including, but not limited to, the estimated price per customer to receive service from the proposed project and any other details of the project that may benefit customers in the area proposed to be served by the proposed project.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.