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An Act To Establish the Maine Broadband Commission

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 issue in this legislation is sensitive to a prescribed federal schedule as established by the Federal Communications Commission, and this issue must be resolved before the end of the legislative session; 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 enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §12004-G, sub-§30-D is enacted to read:

30-D.

Public Utilities

35-A MRSA §9216

Maine Broadband
Commission

Legislative Per Diem
and Expenses

Sec. 2. 35-A MRSA §9216 is enacted to read:

§ 9216. Maine Broadband Commission

1. Establishment; membership. The Maine Broadband Commission, referred to in this section as "the commission," is established pursuant to Title 5, section 12004-G, subsection 30-D to lease or sell excess broadband capacity resulting from the conversion of the education broadband spectrum from analog to digital. The commission is created to advise the University of Maine System on the issue of the transition of the broadband spectrum from analog to digital. The commission shall negotiate and enter into lease or sales agreements with service providers and ensure that the leases and sales potentials and revenues are fully realized for the benefit of the educational system and the State. The commission shall also work to establish a sustainable model in building networks and as a facilitator of infrastructure development to attract private investment and economic opportunities.

The commission is created as a body corporate and politic and a public instrumentality of the State. The commission consists of the following 15 voting members:

A. Two members of the Senate, appointed by the President of the Senate, and one member with expertise in a field relevant to obtaining the maximum public benefit from the lease and sale of education broadband capacity, one member from the Department of Public Safety and one member from the Department of Transportation, appointed by the President of the Senate;

B. Two members of the House of Representatives, appointed by the Speaker of the House, and one member with expertise in a field relevant to obtaining the maximum public benefit from the lease and sale of education broadband capacity, one member from the Department of Economic and Community Development and one member of a statewide public broadcasting network, appointed by the Speaker of the House; and

C. One member each from the ConnectME Authority, the University of Maine System, the Maine Community College System and the executive branch, and one member with expertise in a field relevant to obtaining the maximum public benefit from the lease and sale of education broadband capacity, appointed by the Governor.

Members must be appointed within 30 days of the effective date of this section.

Compensation of members is as provided in Title 5, section 12004-G, subsection 30-D.

2. Terms; chair; vacancies. All nonlegislative members of the commission are appointed for 3-year terms. The first-named Senator is the Senate chair of the commission and the first-named member of the House is the House chair of the commission. In the event of a vacancy in the membership, the appointing authorities shall appoint a replacement member for the remainder of that vacated term. Each member of the commission serves until that member's successor is appointed and qualified. Any member of the commission is eligible for reappointment. Legislative members serve during the term of office for which they were elected and may serve beyond their designated term until their successors are appointed.

3. Officers; quorum. The commission may elect a secretary and a treasurer, who must be members of the commission. Seven members of the commission constitute a quorum, and the affirmative vote of 7 members is necessary for any action taken by the commission.

4. Participation by members. A member may participate in a meeting of the commission and place a vote electronically or telephonically as long as members of the public have an opportunity to listen to the deliberations of the commission and otherwise participate in or observe the proceedings of the commission consistent with Title 1, section 405.

5. Duties. In order to carry out the purposes of this section, the commission has the following powers with respect to its mission to lease or sell excess broadband capacity together with all powers incidental to those powers or necessary for the performance of the following:

A. To adopt bylaws and, pursuant to Title 5, chapter 375, adopt any rule necessary or useful for carrying out any of its powers or duties pursuant to this section. Rules adopted by the commission are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A;

B. To enter into lease or sales agreements in furtherance of the purposes of this section;

C. To make and execute contracts and all other instruments, including financial documents, and enter into such transactions as necessary or convenient for the exercise of its powers and functions under this section;

D. To the extent permitted under any agreement or contract, to consent to any modification of any contract, lease, indenture or agreement of any kind to which the commission is a party;

E. To procure insurance against any loss in connection with its securities and its property and other assets in such amounts and from such insurers as it considers desirable; and

F. To sue or initiate or appear in any proceeding, and the commission may be sued on its written contracts or in accordance with Title 1, section 409; Title 5, chapter 375; or Title 14, chapter 741.

6. Revenue received. Any revenue received from the lease or sale under this section of broadband capacity is dedicated to the enhancement of the University of Maine System and the Maine Community College System, as well as working towards establishing a sustainable model in building networks and as a facilitator of infrastructure development under subsection 1. For the purposes of this section, the revenue must be deposited with the Treasurer of State.

7. Reports. By February 1st of each year, the commission shall submit a report on the commission's annual activities, including the status of all leases and sales of broadband capacity and full amounts of revenue acquired, to the joint standing committees of the Legislature having jurisdiction over utility matters and educational matters.

Sec. 3. Stimulus funds. The Commissioner of Administrative and Financial Services, in the commissioner's role of monitoring the legislative progress of the federal stimulus plan, known as the American Recovery and Reinvestment Act of 2009, shall in a timely manner consult with the agencies and institutions affected by the broadband conversion from analog to digital and the subsequent task of the development of the telecommunications infrastructure of broadband investment, such as the University of Maine System, the Department of Economic and Community Development, the Department of Public Safety and the Department of Transportation, and ascertain how to maximize access to the stimulus funds in order to carry out the purposes of this Act. The commissioner is authorized to submit any legislation for the purpose of gaining funds necessary to the 124th Legislature.

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

SUMMARY

This bill directs the Commissioner of Administrative and Financial Services to ascertain, in consultation with appropriate entities, the maximum funds available from the federal stimulus plan to carry out the purposes of this bill. The bill also establishes the Maine Broadband Commission in order to lease or sell excess broadband capacity resulting from the conversion of the broadband spectrum from analog to digital. The commission is created to advise the University of Maine System on the issue of

the transition of the broadband spectrum from analog to digital. The commission is to negotiate and to enter into lease or sales agreements with service providers and ensure the leases and sales potentials and revenues are fully realized for the benefit of the educational system and the State and to work to the goal of broadband access for everyone in the State.