



# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 465

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H.P. 304

House of Representatives, February 24, 2015

### An Act To Eliminate the Broadband Sustainability Fee

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Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative HIGGINS of Dover-Foxcroft.  
Cosponsored by Senator DAVIS of Piscataquis and  
Representatives: GINZLER of Bridgton, HANINGTON of Lincoln, MAKER of Calais,  
McELWEE of Caribou, SAWICKI of Auburn, SHERMAN of Hodgdon, SKOLFIELD of  
Weld, TURNER of Burlington.

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

2 **Sec. 1. 35-A MRSA §9216, sub-§1, ¶¶A and C**, as enacted by PL 2009, c. 612,  
3 §10, are amended to read:

4 A. "First assessment period" means the period:

5 (1) Commencing on the first day of the month following the date on which a  
6 dark fiber provider first sells, leases or otherwise provides one or more strands of  
7 federally supported dark fiber to an entity in this State; and

8 (2) Ending on the last day of the 60th month following the commencement under  
9 subparagraph (1) or 90 days after the adjournment of the First Regular Session of  
10 the 127th Legislature, whichever comes first.

11 C. "Second assessment period" means the period:

12 (1) Commencing on the first day of the month following the end of the first  
13 assessment period; and

14 (2) Ending ~~on December 31, 2017~~ 90 days after the adjournment of the First  
15 Regular Session of the 127th Legislature.

16 **Sec. 2. 35-A MRSA §9216, sub-§§2, 5 and 6**, as enacted by PL 2009, c. 612,  
17 §10, are amended to read:

18 **2. Broadband sustainability fee.** ~~An~~ Until 90 days after the adjournment of the  
19 First Regular Session of the 127th Legislature, an entity that purchases, leases or  
20 otherwise obtains federally supported dark fiber from a dark fiber provider is subject to  
21 the following broadband sustainability fees:

22 A. During the first assessment period, a monthly fee equal to \$3 multiplied by the  
23 number of miles of federally supported dark fiber strand purchased, leased or used by  
24 the entity during the month; and

25 B. During the 2nd assessment period, a monthly fee equal to \$2 multiplied by the  
26 number of miles of federally supported dark fiber strand purchased, leased or used by  
27 the entity during the month.

28 **5. Broadband sustainability fund.** The authority shall establish a broadband  
29 sustainability fund, separate and distinct from any other funds held or maintained by the  
30 authority, for use in accordance with subsection 6. The fund is nonlapsing and all interest  
31 on funds in the fund remains in the fund for use in accordance with subsection 6. The  
32 authority may contract with an appropriate independent fiscal agent that is not a state  
33 entity to serve as the administrator of the fund. ~~All funds deposited in the broadband~~  
34 ~~sustainability fund are deemed to be encumbered for purposes of subsection 6 at the time~~  
35 ~~the funds are deposited in the fund.~~

36 **6. Use of the broadband sustainability fund.** The authority shall ~~provide~~  
37 ~~incumbent local exchange carriers a right of first refusal to access~~ use funds in the  
38 broadband sustainability fund established pursuant to subsection 5 ~~in accordance with this~~

1 subsection to support municipal governments in developing plans to promote broadband  
2 service in unserved or underserved areas.

3 ~~A. The authority shall allocate funds in the broadband sustainability fund established~~  
4 ~~pursuant to subsection 5 to each incumbent local exchange carrier in accordance with~~  
5 ~~this paragraph. Each month, the authority shall allocate to each incumbent local~~  
6 ~~exchange carrier an amount equal to the total amount deposited that month into the~~  
7 ~~broadband sustainability fund multiplied by a fraction, the denominator of which is~~  
8 ~~the total number of miles of federally supported dark fiber leased, sold or used in this~~  
9 ~~State during the previous month and the numerator of which is the total number of~~  
10 ~~miles of federally supported dark fiber leased, sold or used in that incumbent local~~  
11 ~~exchange carrier's service territory during the previous month. Any accumulated~~  
12 ~~interest in the fund must be allocated proportionally. Only those amounts allocated to~~  
13 ~~an incumbent local exchange carrier under this paragraph are available for~~  
14 ~~disbursement to that carrier pursuant to paragraph B. By December 31st of each~~  
15 ~~calendar year, the authority shall make an accounting of the total funds allocated~~  
16 ~~during that calendar year to each incumbent local exchange carrier under this~~  
17 ~~paragraph, and if by December 31st of the following calendar year some or all of~~  
18 ~~those funds allocated to a carrier are not disbursed to that carrier in accordance with~~  
19 ~~paragraph B, the authority shall transfer those unspent funds to the ConnectME Fund~~  
20 ~~established under section 9211 for use in accordance with that section. Funds~~  
21 ~~transferred to the ConnectME Fund under this paragraph cease to be available to any~~  
22 ~~incumbent local exchange carrier pursuant to the provisions of this section.~~

23 ~~B. To receive a disbursement from the broadband sustainability fund established~~  
24 ~~pursuant to subsection 5, an incumbent local exchange carrier must file with the~~  
25 ~~authority a request for funds together with a certification indicating that the funds~~  
26 ~~requested will be used to deploy broadband infrastructure in unserved areas within~~  
27 ~~the carrier's service territory. The certification must include the projected cost for the~~  
28 ~~project and the scope of work, which must indicate how the funds will be spent.~~  
29 ~~Upon receipt of a request for funds accompanied by the required certification, the~~  
30 ~~authority shall disburse the requested amount to the incumbent local exchange carrier~~  
31 ~~up to an amount not to exceed the total amount allocated under paragraph A to the~~  
32 ~~requesting carrier.~~

33 ~~C. An incumbent local exchange carrier may not expend funds received under~~  
34 ~~paragraph B in a manner inconsistent with the certification provided by the carrier~~  
35 ~~under paragraph B. The authority may audit the use by an incumbent local exchange~~  
36 ~~carrier of funds disbursed in accordance with paragraph B.~~

37 ~~D. On the last day of the 12th month following the end of the 2nd assessment period,~~  
38 ~~the authority shall transfer all funds remaining in the broadband sustainability fund~~  
39 ~~established pursuant to subsection 5 to the ConnectME Fund established under~~  
40 ~~section 9211 for use in accordance with that section. Funds transferred to the~~  
41 ~~ConnectME Fund pursuant to this paragraph cease to be available to any incumbent~~  
42 ~~local exchange carrier pursuant to the provisions of this section.~~

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## **SUMMARY**

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This bill terminates the broadband sustainability fee and requires that all funds in the

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broadband sustainability fund be used to support municipal governments in developing

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plans to promote broadband service in unserved or underserved areas.