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ENERGY, UTILITIES AND TECHNOLOGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 986, L.D. 1364, Bill, "An Act Regarding Net Neutrality and Internet Policy"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 5 MRSA §1541-B is enacted to read:

§1541-B. Net neutrality

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Advanced communications technology infrastructure" has the same meaning as in Title 35-A, section 9202, subsection 1.

B. "Commit state funds" means to enter into a contract, make a grant or otherwise commit any state funds, including but not limited to any act that would incur a financial obligation against the State Government subject to review under section 1541, subsection 2.

C. "Internet service provider" has the same meaning as in section 200-B, subsection 1-A, paragraph A.

D. "Net neutral service" means fixed or mobile Internet service that is provided without engaging in any of the following:

- (1) Blocking of lawful content, applications, services or devices;
(2) Throttling; or
(3) Paid prioritization.

E. "Paid prioritization" means management of an Internet service provider's network to directly or indirectly favor some traffic over other traffic in exchange for payment.

F. "State entity" means a department, agency or instrumentality of the State.

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1 G. "Throttling" means intentionally slowing, impairing or degrading the speed of
2 Internet traffic on the basis of content, application, service or device.

3 **2. Provider agreement.** A state entity may not commit state funds to an Internet
4 service provider unless:

5 A. The Internet service provider agrees in writing to provide net neutral service in
6 the provision of Internet service:

7 (1) Directly to the state entity; or

8 (2) Across advanced communications technology infrastructure constructed with
9 the use of the state funds;

10 B. The state entity provides to the State Controller:

11 (1) Notice of its intent to commit state funds to an Internet service provider; and

12 (2) A written agreement from the Internet service provider that conforms to the
13 requirements of paragraph A; and

14 C. The State Controller finds that the requirements of paragraphs A and B have been
15 satisfied and authorizes the state agency or instrumentality to commit state funds.

16 Nothing in this section limits the authority of the State Controller under any other
17 provision of law to limit or prohibit a state entity from committing state funds.

18 Upon receipt of information or complaint from any person that an Internet service
19 provider may be failing to meet the requirements of an agreement made under this
20 section, the Attorney General may undertake an investigation and take any action the
21 Attorney General determines appropriate, including, but not limited to, action pursuant to
22 section 192.'

23 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
24 section number to read consecutively.

25 SUMMARY

26 The amendment narrows the scope and application of the prohibition in the bill
27 regarding committing state funds for payment to an Internet service provider. The
28 amendment prohibits an agency, department or instrumentality of the State from
29 committing state funds to an Internet service provider unless the Internet service provider
30 agrees to provide net neutral service in the provision of Internet service directly to the
31 state entity or the provision of service across advanced communications infrastructure
32 constructed with the use of state funds. The amendment defines "net neutral service" as
33 Internet service provided without engaging in any of the following: blocking of lawful
34 content, applications, services or devices; throttling; or paid prioritization. The
35 amendment removes the requirement in the bill that prohibits the commitment of state
36 funds to an Internet service provider unless that provider agrees, in providing any service,
37 to conform to the requirements of the Federal Communications Commission order, FCC
38 15-24, known as the Open Internet Order.