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ENERGY, UTILITIES AND TECHNOLOGY

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STATE OF MAINE

SENATE

129TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT “ ” to S.P. 498, L.D. 1563, Bill, “An Act To Encourage the Development of Broadband Coverage in Rural Maine”

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

Sec. 1. 5 MRSA §12004-G, sub-§33-F, as enacted by PL 2005, c. 665, §1, is amended to read:

33-F.

Technology ~~ConnectME~~ Not Authorized 35-A MRSA §9203
ConnectMaine Authority

Sec. 2. 5 MRSA §12021, sub-§6, ¶B, as enacted by PL 2011, c. 616, Pt. A, §1, is amended to read:

B. The ~~ConnectME~~ ConnectMaine Authority under Title 35-A, section 9203;

Sec. 3. 30-A MRSA §5225, sub-§1, ¶C, as amended by PL 2019, c. 260, §1, is further amended by amending subparagraph (9) to read:

(9) Costs associated with broadband and fiber optics expansion projects, including preparation, planning, engineering and other related costs in addition to the construction costs of those projects. If an area within a municipality or plantation is unserved with respect to broadband service, as defined by the ~~ConnectME~~ ConnectMaine Authority as provided in Title 35-A, section 9204-A, subsection 1, broadband and fiber optics expansion projects may serve residential or other nonbusiness or noncommercial areas in addition to business or commercial areas within the municipality or plantation; and

Sec. 4. 35-A MRSA §2503, sub-§2, as amended by PL 2017, c. 344, §1, is further amended to read:

COMMITTEE AMENDMENT

1 **2. Notice.** The applicant may give public notice of the application by publishing its
2 description of the proposed facility once in a newspaper circulated in the municipality or
3 municipalities encompassing the limits of the proposed location. The applicant shall send
4 a copy of any application filed with the Department of Transportation to the municipal
5 clerk of each municipality in which the facilities are located, or to the clerk of the county
6 commissioners in the case of facilities within an unorganized township, except that the
7 applicant may, without publication of its application, place its facility described in its
8 application on receipt of a permit from the licensing authority as may be otherwise
9 provided. If a proposed facility is located underground and is in excess of 500 feet in
10 length, the applicant shall, within 5 business days of submitting an application to the
11 applicable licensing authority, provide the ~~ConnectME~~ ConnectMaine Authority
12 established in Title 5, section 12004-G, subsection 33-F a notice that includes a
13 description and the location of the proposed facility.

14 **Sec. 5. 35-A MRSA §7104-B, sub-§5, ¶I,** as enacted by PL 2019, c. 52, §4, is
15 amended to read:

16 I. To provide, within existing resources, support for qualified libraries in rural areas
17 of the State with greatest need, as determined in consultation with the State Librarian,
18 the Commissioner of Education and the ~~ConnectME~~ ConnectMaine Authority, to
19 offer portable wireless access points, or hotspots, for mobile Internet access.

20 **Sec. 6. 35-A MRSA §9202, sub-§2,** as enacted by PL 2005, c. 665, §3, is
21 amended to read:

22 **2. Authority.** "Authority" means the ~~ConnectME~~ ConnectMaine Authority
23 established in section 9203.

24 **Sec. 7. 35-A MRSA §9203,** as amended by PL 2019, c. 343, Pt. QQ, §2, is further
25 amended to read:

26 **§9203. ~~ConnectME~~ ConnectMaine Authority**

27 **1. Establishment; membership.** The ~~ConnectME~~ ConnectMaine Authority is
28 established to further the goals and policies in section 9202-A. The authority is created as
29 a body corporate and politic and a public instrumentality of the State. The exercise by the
30 authority of powers conferred by this chapter is considered to be the performance of
31 essential governmental functions. The authority consists of the following 7 voting
32 members:

- 33 A. The chair of the Public Utilities Commission or the chair's designee;
- 34 B. The Chief Information Officer of the State or the officer's designee;
- 35 C. One representative of consumers, appointed by the Governor;
- 36 D. Two members with significant knowledge of communications technology,
37 appointed by the Governor;
- 38 E. The Commissioner of Economic and Community Development or the
39 commissioner's designee; and
- 40 F. One member with significant knowledge of telemedicine as defined in Title 24-A,
41 section 4316, subsection 1, appointed by the Governor.

1 Compensation of members is as provided in Title 5, section 12004-G, subsection 33-F.

2 **2. Terms; chair; vacancies.** All members are appointed for 3-year terms. The
3 Governor shall appoint a chair from among the 4 members appointed by the Governor. In
4 the event of a vacancy in the membership, the Governor shall appoint a replacement
5 member for the remainder of that vacated term. Each member of the authority serves until
6 that member's successor is appointed and qualified. Any member of the authority is
7 eligible for reappointment.

8 **3. Officers; quorum.** The authority may elect a secretary and a treasurer, who may,
9 but need not, be members of the authority. Four members of the authority constitute a
10 quorum, and the affirmative vote of 4 members is necessary for any action taken by the
11 authority.

12 **4. Participation by members.** A member may participate in a meeting of the
13 authority and place a vote electronically or telephonically as long as members of the
14 public have an opportunity to listen to the deliberations of the authority and otherwise
15 participate in or observe the proceedings of the authority consistent with Title 1, section
16 405.

17 **5. Indemnification.** Each member of the authority must be indemnified by the
18 authority against expenses actually and necessarily incurred by the member in connection
19 with the defense of any action or proceeding in which the member is made a party by
20 reason of being or having been a member of the authority and against any final judgment
21 rendered against the member in that action or proceeding.

22 **7. Staff; central broadband planning board.** The Department of Economic and
23 Community Development shall provide staff for the authority. That staff shall serve as
24 the central broadband planning board for the State and shall support the authority in
25 accordance with the provisions of this chapter.

26 **Sec. 8. 35-A MRSA §9204-A, sub-§7,** as enacted by PL 2015, c. 284, §7, is
27 amended to read:

28 **7. Administer funds.** The authority shall administer the ~~ConnectME~~ ConnectMaine
29 Fund as established pursuant to section 9211.

30 **Sec. 9. 35-A MRSA §9207,** as enacted by PL 2005, c. 665, §3, is amended to
31 read:

32 **§9207. Collection of data**

33 Subject to the provisions in this section, the authority ~~may~~ shall collect ~~data~~ annually
34 from communications service providers and any wireless ~~provider~~ providers that own or
35 operate advanced communications technology infrastructure in the State data concerning
36 infrastructure deployment ~~and costs, revenues and subscribership~~ for the purpose of
37 developing mapping information to assist the authority in implementing the provisions of
38 section 9202-A; pricing data for advertised retail pricing for broadband services offered
39 in the State; and revenue data for the purpose of assessing communications service
40 providers subject to section 9211. The authority shall permit providers that have
41 provided data to the authority at a level of detail that the authority has determined
42 acceptable to continue to provide the data in the same format. For mapping data, the

1 authority, whenever possible, shall use data formats consistent with data formats used for
2 mapping at the federal level.

3 **1. Confidential information.** If the authority, on its own or upon request of any
4 person or entity, determines that public access to specific information about
5 communications service providers in the State could compromise the security of public
6 utility systems to the detriment of the public interest or that specific information is of a
7 competitive or proprietary nature, the authority shall issue an order designating that
8 information as confidential. Information that may be designated as confidential pursuant
9 to this subsection includes, but is not limited to, network diagrams. The authority may
10 designate information as confidential under this subsection only to the minimum extent
11 necessary to protect the public interest or the legitimate competitive or proprietary
12 interests of a communications service provider. The authority, upon request or on its own
13 motion, may initiate a proceeding to determine whether to remove the confidential
14 designation of specific information provided under this section. The authority shall adopt
15 rules pursuant to section 9205, subsection 3 defining the criteria it will use to satisfy the
16 requirements of this paragraph and the types of information that would satisfy the criteria.
17 The authority may not designate any information as confidential under this subsection
18 until those rules are finally adopted.

19 Information designated as confidential under this subsection is not a public record under
20 Title 1, section 402, subsection 3.

21 **2. Protection of information.** A communications service provider may request that
22 confidential or proprietary information provided to the authority under subsection 1 not
23 be viewed by those members of the authority who could gain a competitive advantage
24 from viewing the information. Upon such a request, the authority shall ensure that the
25 information provided is viewed only by those members of the authority and staff who do
26 not stand to gain a competitive advantage and that there are adequate safeguards to
27 protect that information from members of the authority who could gain a competitive
28 advantage from viewing the information.

29 **Sec. 10. 35-A MRSA §9208, sub-§3,** as enacted by PL 2005, c. 665, §3, is
30 amended to read:

31 **3. Investments.** Contains a listing of any investments of money in the ~~ConnectME~~
32 ConnectMaine Fund, as established pursuant to section 9211, and a tracking of the
33 infrastructure improvements resulting from the investments; and

34 **Sec. 11. 35-A MRSA §9211,** as amended by PL 2019, c. 343, Pt. SSSS, §§3 and
35 4, is further amended to read:

36 **§9211. ~~ConnectME~~ ConnectMaine Fund**

37 **1. ~~ConnectME~~ ConnectMaine Fund established.** The ~~ConnectME~~ ConnectMaine
38 Fund, referred to in this section as "the fund," is established as a nonlapsing fund
39 administered by the authority for the purposes of supporting the activities and projects of
40 the authority under this chapter. The ConnectMaine Fund may also be referred to as "the
41 ConnectME Fund."

42 **2. Assessment.** After receiving authorization pursuant to Title 5, section 8072 to
43 finally adopt major substantive rules under section 9205, subsection 3 or after January 15,

1 2007, whichever is later, the authority may require every communications service
2 provider to contribute on a competitively neutral basis to the fund. The assessment may
3 not exceed 0.25% of the revenue received or collected for all communications services
4 provided in this State by the communications service provider. A facilities-based
5 provider of wireless voice or data retail service may voluntarily agree to be assessed by
6 the authority as a communications service provider under this subsection.

7 **2-A. Surcharge; collection.** Beginning January 1, 2020, in addition to the
8 assessment imposed pursuant to subsection 2, a ConnectME surcharge of 10¢ per line or
9 number is imposed. The assessment imposed pursuant to subsection 2 and the surcharge
10 imposed pursuant to this subsection must be collected from the customer on a monthly
11 basis by each communications service provider. Revenue must be deposited in the fund.

12 **3. Explicit identification of assessment and surcharge on customer bills.** A
13 communications service provider assessed pursuant to subsection 2 may recover the
14 amount of the assessment from the provider's customers. If a provider recovers the
15 amount from its customers, it must explicitly identify the amount owed by a customer on
16 the customer's bill and indicate that the funds are collected for use in the ConnectME
17 Fund. Beginning January 1, 2020, the ConnectME surcharge imposed pursuant to
18 subsection 2-A must be shown separately from the assessment imposed pursuant to
19 subsection 2 as a statewide ConnectME surcharge on the customer's bill.

20 **Sec. 12. 35-A MRSA §9216,** as amended by PL 2015, c. 151, §§1 and 2 and c.
21 284, §10, is repealed.

22 **Sec. 13. 35-A MRSA §9217, sub-§1,** as enacted by PL 2015, c. 284, §11, is
23 amended to read:

24 **1. Requirements Elements of plans.** Plans funded through grants under this section
25 ~~must~~ may include:

26 A. ~~Define~~ A description of local broadband needs and goals;

27 B. ~~Inventory~~ An inventory of existing broadband infrastructure assets within the
28 municipality, municipalities or region;

29 C. ~~Include—a~~ A gap analysis defining the additional broadband infrastructure
30 necessary to meet identified needs and goals;

31 D. ~~Include—one~~ One or more potential network designs, cost estimates, operating
32 models and potential business models based on input from broadband providers
33 operating within the municipality, municipalities or region and any other parties that
34 submit a network design solution in the course of developing the plan to address any
35 broadband gaps identified in paragraph C; and

36 E. ~~Include—an~~ An assessment of all municipal procedures, policies, rules and
37 ordinances that have the effect of delaying or increasing the cost of broadband
38 infrastructure deployment.

39 The authority shall make all plans developed using grant funds under this section
40 available on the authority's publicly accessible website.

41 **Sec. 14. Transition provisions.** The following provisions govern the transition
42 of the ConnectME Authority to the ConnectMaine Authority.

1 5. Requires the authority to initiate rulemaking within 90 days of the effective date
2 of the Act to implement the provisions of the Act.

3

FISCAL NOTE REQUIRED

4

(See attached)