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# TELECOMMUNICATIONS ASSOCIATION OF MAINE

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April 27, 2021

Senator Mark Lawrence, Senate Chair  
Representative Seth Berry, House Chair  
Members of the Energy, Utilities and Technology Committee  
130<sup>th</sup> Maine Legislature  
100 State House Station  
Augusta, ME 04333

**RE: LD 1432, An Act To Update the Municipal Gigabit Broadband Network  
Access Fund**

The Telecommunications Association of Maine (TAM) offers the following testimony in **OPPOSITION** to LD 1432, An Act To Update the Municipal Gigabit Broadband Network Access Fund.

As drafted, this legislation would encourage the overbuilding of existing networks by municipalities in order to deploy open access networks on the theory that this will bring competitive benefits to customers in the State. When Municipalities, aided by State funds, overbuild privately financed networks, they send a clear message not only to the investors in existing networks but to any potential investors in private expansion of service that Maine is a high risk investment area and investments should be limited. In practical terms, this means that investments will continue to be made in low cost high margin areas of the State, the more urban areas, but investment will decline significantly in rural areas. The economic case for building in rural areas is already slim, but when you add in the likelihood of having your customer base cherry picked by a government owned network, the economic case quite simply disappears. The State will then be left with having to foot 100% of the costs of reaching these most remote areas through taxpayer dollars, whether State, local, or federal. This does not even consider the ongoing costs of network ownership and maintenance. Some affluent towns will have a sufficient customer base to make this viable, most will not. The net result of this legislation will be an increase in the digital divide and a reduction in private investment in rural Maine.

The legislation is also flawed in the assumption that open access last mile networks are a viable option to promote competition. They are not. We know that because they have existed for well over a decade and to date the vast majority of "open access" last mile networks have only one provider on them. That includes the networks in Maine. The reason is simple, they don't make business sense. Once the first provider is on the open access network, the potential customer base is reduced to a level where even having a low cost infrastructure option does not create a valid economic case for offering service. In addition, companies are reluctant to utilize shared infrastructure when offering end user service, because it becomes much more difficult to guarantee quality of service levels customers expect. When a provider is the only one on the infrastructure then they know what is happening with maintenance, or upgrades, or switch-overs to new systems, that may affect service and those events can be managed in a way that has minimal impact on their customers. However, when there is another provider performing maintenance, upgrades, or switch-overs on the same infrastructure who is a competitor with no

incentive for ensuring that such activities are undertaken in a manner that does not impact other users of the shared infrastructure, then a provider's customers may experience service impacts outside of the provider's control. Good business models depend on stability and reliability, and shared infrastructure is neither of those things.

Accordingly, TAM would urge this Committee to vote **OUGHT NOT TO PASS** on LD 1432, An Act To Update the Municipal Gigabit Broadband Network Access Fund.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. Sanborn", with a long horizontal flourish extending to the right.

Benjamin M. Sanborn, Esq.  
Telecommunications Association of Maine