

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1399

S.P. 477

In Senate, April 11, 2017

An Act To Encourage Broadband Coverage in Rural Maine

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator BELLOWS of Kennebec.
Cosponsored by Representative BERRY of Bowdoinham and
Senators: BREEN of Cumberland, DAVIS of Piscataquis, DION of Cumberland, MAKER of
Washington, SAVIELLO of Franklin, Representatives: HARVELL of Farmington, HIGGINS
of Dover-Foxcroft, McELWEE of Caribou.

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

2 **Sec. 1. 5 MRSA §12004-G, sub-§33-F**, as enacted by PL 2005, c. 665, §1, is
3 repealed.

4 **Sec. 2. 5 MRSA §12004-G, sub-§33-G** is enacted to read:

5 **33-G.**

6 Technology Board of Directors Expenses Only 35-A MRSA §9303
7 of the Maine
8 Broadband Initiative

9 **Sec. 3. 5 MRSA §12021, sub-§6, ¶B**, as enacted by PL 2011, c. 616, Pt. A, §1, is
10 repealed.

11 **Sec. 4. 5 MRSA §12021, sub-§6, ¶E-1** is enacted to read:

12 E-1. The Maine Broadband Initiative under Title 35-A, section 9303:

13 **Sec. 5. 5 MRSA §13056-H** is enacted to read:

14 **§13056-H. Maine Broadband Initiative Director**

15 **1. Appointment.** The Governor shall appoint a full-time Maine Broadband
16 Initiative Director, referred to in this section as "the director," who serves at the pleasure
17 of the Governor. The director shall report to the commissioner in the execution of the
18 director's responsibilities.

19 **2. Duties.** The director serves as the president of the Maine Broadband Initiative
20 established in Title 35-A, section 9303 upon confirmation by the Maine Broadband
21 Initiative's board of directors. The director shall oversee activities of the Maine
22 Broadband Initiative and has the duties and responsibilities provided in Title 35-A,
23 chapter 93-A.

24 **Sec. 6. 5 MRSA §17001, sub-§40**, as amended by PL 2009, c. 372, Pt. C, §1, is
25 further amended to read:

26 **40. State employee.** "State employee" means any regular classified or unclassified
27 officer or employee in a department, any employee of the Maine Community College
28 System except those who make the election provided under Title 20-A, section 12722,
29 any employee of the Maine Educational Center for the Deaf and Hard of Hearing and the
30 Governor Baxter School for the Deaf except as provided in Title 20-A, section 7407,
31 subsection 3-A, any employee of the Maine Military Authority, any employee of the
32 Northern New England Passenger Rail Authority, any employee of the Maine Port
33 Authority, any employee of the Efficiency Maine Trust who on June 30, 2009 is an
34 employee of the Public Utilities Commission energy efficiency or renewable energy
35 programs who elects to remain a state employee, any employee of the Efficiency Maine
36 Trust who accepts employment with the Efficiency Maine Trust prior to July 1, 2010 who

1 was a state employee immediately prior to accepting such employment who elects to
2 remain a state employee, any employee of the Maine Broadband Initiative who on
3 December 31, 2017 is an employee of the ConnectME Authority who elects to remain a
4 state employee, any employee of the Maine Broadband Initiative who accepts
5 employment with the Maine Broadband Initiative prior to January 1, 2018 who was a
6 state employee immediately prior to accepting such employment who elects to remain a
7 state employee and any employee transferred from the Division of Higher Education
8 Services to the Finance Authority of Maine who elects to be treated as a state employee,
9 but does not include:

10 A. A judge, as defined in Title 4, section 1201 or 1301, who is now or later may be
11 entitled to retirement benefits under Title 4, chapter 27 or 29;

12 B. A member of the State Police who is now entitled to retirement benefits under
13 Title 25, chapter 195; or

14 C. A Legislator who is now or later may be entitled to retirement benefits under Title
15 3, chapter 29.

16 **Sec. 7. 10 MRSA §9902, sub-§3, ¶A**, as enacted by PL 2011, c. 622, §1, is
17 amended to read:

18 A. Property and equipment, including related support facilities that provide service
19 to more than one customer or person, owned or used by a public utility as defined in
20 Title 35-A, section 102, subsection 13 or by a communications service provider as
21 defined in Title 35-A, section ~~9202~~ 9301, subsection 4. "Infrastructure" includes,
22 without limitation, real and personal property such as buildings, offices, power lines,
23 poles, pipes, structures and equipment; and

24 **Sec. 8. 35-A MRSA c. 93**, as amended, is repealed.

25 **Sec. 9. 35-A MRSA c. 93-A** is enacted to read:

26 **CHAPTER 93-A**

27 **ADVANCED COMMUNICATIONS TECHNOLOGY INFRASTRUCTURE**

28 **§9301. Definitions**

29 As used in this chapter, unless the context otherwise indicates, the following terms
30 have the following meanings.

31 **1. Advanced communications technology infrastructure.** "Advanced
32 communications technology infrastructure" means any communications technology
33 infrastructure improvement that expands the deployment of, or improves the quality of,
34 broadband availability and wireless service coverage at regionally and nationally
35 competitive speeds of at least 50 megabits per second download and at least 50 megabits
36 per second upload.

37 **2. Board.** "Board" means the Board of Directors of the Maine Broadband Initiative.

1 **3. Communications service.** "Communications service" means any wireline voice,
2 satellite, data, fixed wireless data or video retail service.

3 **4. Communications service provider.** "Communications service provider" means:

4 A. Any entity offering communications service to customers in the State; or

5 B. Any facilities-based provider of wireless voice or data retail service.

6 **5. High-speed broadband.** "High-speed broadband" means a device or
7 infrastructure for broadband access that delivers speeds matching the best available in
8 competitive regional and national markets based on an annual benchmark established
9 pursuant to section 9304, subsection 5. The minimum speed for high-speed broadband is
10 50 megabits per second download and 50 megabits per second upload.

11 **6. Initiative.** "Initiative" means the Maine Broadband Initiative established in
12 section 9303, subsection 1.

13 **7. Unserved area.** "Unserved area" means a United States Census block area within
14 the State as defined in the United States Census for 2010 that has a slower actual
15 broadband speed than 25 megabits per second download and 10 megabits per second
16 upload.

17 **§9302. State broadband policy**

18 **1. Goals.** The goals of the State related to high-speed broadband are:

19 A. To ensure the availability of competitive, secure, universal high-speed broadband
20 services to promote economic development, education, delivery of cost-effective
21 health care and public safety; and

22 B. To ensure that the State develops and maintains an advanced communications
23 technology infrastructure providing high-speed broadband that allows residents and
24 businesses to compete in the national and global economy.

25 **2. Policies.** The policies of the State related to high-speed broadband are to:

26 A. Maximize partnerships and collaborations among and between state entities,
27 nonprofit organizations, municipalities, the Federal Government and the private
28 sector to extend and complete high-speed broadband coverage in the State;

29 B. Make the most efficient use of both public and private resources by encouraging
30 the development of open access advanced communications technology infrastructure
31 that can be shared by multiple communications service providers; and

32 C. Support and facilitate the construction of advanced communications technology
33 infrastructure and access to high-speed broadband service through financial and other
34 incentives when partnerships and collaborations are not adequate to achieve the goal
35 of providing high-speed broadband access and service to all areas and households, or
36 when some areas of the State fall behind significantly in the variety and quality of
37 services readily available elsewhere in the State.

1 **§9303. Maine Broadband Initiative**

2 **1. Establishment.** The Maine Broadband Initiative is established as a nonprofit
3 corporation with public and charitable purposes. The duties, activities and operations of
4 the initiative are within the provisions of the federal Internal Revenue Code of 1986,
5 Section 501(c)(3).

6 **2. Purpose.** The initiative, through a public and private partnership, shall encourage,
7 promote, stimulate, invest in and support universal high-speed broadband to unserved
8 areas. The initiative, as one element of the State's economic development strategy, shall
9 contribute to the long-term development of a statewide telecommunications
10 infrastructure.

11 **3. Board of Directors of the Maine Broadband Initiative.** The initiative is
12 governed and all of its powers exercised by a board of directors established in Title 5,
13 section 12004-G, subsection 33-G. The board consists of 12 voting members and 2
14 nonvoting members.

15 **A.** The Governor shall appoint 6 voting directors. In making appointments, the
16 Governor shall give consideration to citizens of the State with knowledge of
17 telecommunications technology, telecommunications regulatory law, transportation
18 rights-of-way and infrastructure, finance and environmental permitting. At least 4 of
19 the appointees must come from areas of the State where high-speed broadband is not
20 available.

21 **B.** The Speaker of the House of Representatives and the President of the Senate shall
22 each appoint 2 voting directors, who may not be members of the Legislature at the
23 time of appointment. In making appointments, the Speaker of the House of
24 Representatives and the President of the Senate shall give consideration to citizens of
25 the State with knowledge of telecommunications technology, telecommunications
26 regulatory law, transportation rights-of-way and infrastructure, finance and
27 environmental permitting. At least 2 of the 4 appointees must come from areas of the
28 State where high-speed broadband is not available.

29 **C.** The Commissioner of Economic and Community Development, or the
30 commissioner's designee, is an ex officio voting director.

31 **D.** The director of the office within the University of Maine System that provides
32 schools and libraries with Internet connectivity at little or no cost through a
33 consortium of schools and libraries across the State is an ex officio voting director.

34 **E.** The Director of the Governor's Office of Policy and Management, or the director's
35 designee, is an ex officio nonvoting director.

36 **F.** The president of the initiative described under subsection 6 is a nonvoting
37 director.

38 **4. Terms.** Directors of the board appointed by the Governor, the Speaker of the
39 House of Representatives and the President of the Senate are appointed for 3-year terms.
40 Directors who serve on the board by virtue of their offices serve terms coincident with
41 their terms in office.

1 **5. Chair; vice-chair; secretary; treasurer.** The board shall elect a chair, a
2 vice-chair, a secretary and a treasurer from among its members. Each officer serves for a
3 one-year term and is eligible for reelection.

4 **6. President.** The Maine Broadband Initiative Director at the Department of
5 Economic and Community Development serves as president of the initiative upon
6 confirmation by the board. Once every 4 years upon a vacancy in the Maine Broadband
7 Initiative Director position, the Governor shall submit the Maine Broadband Initiative
8 Director's name to the board for reappointment. Reappointment is subject to
9 confirmation by the board. The president shall:

10 A. Manage the initiative's programs, services and employees; and

11 B. Perform other duties the board considers appropriate.

12 **7. Quorum.** A majority of the voting directors constitutes a quorum.

13 **8. Executive committee.** The board may elect an executive committee of not fewer
14 than 6 members who, in intervals between meetings of the board, may transact such
15 business of the initiative as the board may authorize from time to time.

16 **9. Annual report.** By December 15th of every odd-numbered year, the initiative
17 shall provide a report, with audited financial reports, on its activities to the joint standing
18 committee or joint select committee of the Legislature having jurisdiction over
19 telecommunications and broadband matters.

20 **§9304. Duties of the initiative**

21 **1. Plan, construct, acquire or improve facilities or equipment for the purpose of**
22 **providing broadband service.** The initiative may use funds from all sources available to
23 it to assist in the expansion of high-speed broadband in the State. The initiative may
24 provide grants, loans or investments, including for infrastructure that is used by multiple
25 providers, to public and private organizations to expand high-speed broadband access in
26 unserved areas. When possible, the initiative shall plan and provide resources to
27 construct system networks to serve multiple communities and areas of the State.

28 **2. Support local and regional broadband planning.** The initiative shall provide
29 technical and financial assistance to communities that include unserved areas to identify
30 the need for broadband infrastructure and services and develop and implement plans to
31 meet those needs.

32 **3. Support local activities to increase digital literacy.** The initiative shall provide
33 financial assistance to communities in the State to increase technology adoption and
34 digital literacy activities.

35 **4. Develop and maintain an inventory of information on advanced**
36 **communications technology infrastructure.** The initiative shall develop and maintain
37 an inventory of advanced communications technology infrastructure that is available or
38 reasonably likely to be available to support high-speed broadband services to unserved
39 areas and shall develop and maintain an inventory of advanced communications
40 technology infrastructure necessary to provide high-speed broadband services to unserved

1 areas. The initiative shall use the information collected to identify areas of the State that
2 are significantly unserved areas for strategic investments to build or expand high-speed
3 broadband.

4 **5. Collect and maintain information to establish annual benchmark.** The
5 initiative shall collect and maintain information on the speeds, latency, reliability and
6 prices of broadband available to residents and businesses at select rural and non-rural
7 locations in the State and the speeds, latency, reliability and prices available in 10 other
8 regionally and nationally competitive markets. The initiative shall use the information to
9 establish an annual benchmark.

10 **6. Create a statewide strategy for meeting state goals.** The initiative shall
11 convene a group of stakeholders to create a statewide broadband strategy. The strategy
12 must identify strategies for achieving the state goals as set out in section 9302 and for
13 encouraging a cohesive and expanding infrastructure network throughout the State.

14 **7. Administer funds.** The initiative shall administer the Maine Broadband Initiative
15 Fund established in section 9311.

16 **8. Develop and make policy recommendations on advanced communications**
17 **technology infrastructure.** The initiative shall review, recommend and facilitate
18 changes in laws, rules, programs and policies of the State and its agencies to advance
19 deployment of broadband infrastructure to all unserved areas. The initiative shall assist in
20 identifying opportunities to use broadband infrastructure to achieve the state policies and
21 goals as set out in section 9302 and support coordination between communications
22 providers and state and local government entities.

23 **9. Fiscal agent for public investments in high-speed broadband infrastructure.**
24 The initiative is the fiscal agent of the State for all funds appropriated or allocated to the
25 initiative. Fiscal duties of the initiative include the disbursement of funds through grants,
26 loans or other financial incentives to private companies, towns, regional entities and
27 nonprofit organizations. Other duties of the initiative include:

28 A. The accounting, evaluation and monitoring of all activities of the initiative and all
29 programs funded in whole or in part by grants, loans or direct investment from the
30 initiative; and

31 B. Working with public officials to actively consider leveraging public funds to
32 attract matching funds from public or private sources and negotiating for those funds.

33 **10. Adoption of bylaws.** The initiative shall adopt bylaws, through the board,
34 consistent with this chapter for the governance of its affairs.

35 **11. Employees.** The initiative shall fix, through the board, the compensation of all
36 employees of the initiative.

37 **12. Other duties.** The initiative shall do all things necessary or convenient to carry
38 out the lawful purposes of the initiative under this chapter.

1 **§9305. Powers of the initiative**

2 The initiative may:

3 **1. Financial assistance.** Provide financial assistance in the form of loans, grants,
4 guarantees or other financial instruments, or, in accordance with section 9310, issue
5 bonds backed by project revenues, for the purpose of building advanced communications
6 technology infrastructure capable of delivering high-speed broadband services to all of
7 the State. The State Controller shall pay the initiative the estimated total amount
8 expected to be collected in accordance with the communications service provider
9 assessments under section 9311, subsection 3 and the total amount collected pursuant to
10 the telecommunications tax assessments under Title 36, section 457, subsection 5-B for
11 each fiscal year on July 1st of that year. The funds provided by the State Controller are
12 nonlapsing. If the actual amount of total funds collected for the Maine Broadband
13 Initiative Fund pursuant to section 9311 is higher than the amount paid to the initiative,
14 the excess must be added to the following year's allotment from the State Controller
15 pursuant to this subsection. If the actual amount collected for the Maine Broadband
16 Initiative Fund pursuant to section 9311 is less than the amount paid to the initiative, the
17 difference must be subtracted from the following year's allotment from the State
18 Controller pursuant to this subsection;

19 **2. Funding.** Coordinate access to and pursue all state, federal and private funding
20 that is available for high-speed broadband and advanced communications technology
21 infrastructure;

22 **3. Contributions.** Receive and accept grants, gifts, loans, fees or contributions from
23 any source to expand high-speed broadband in unserved areas of the State;

24 **4. Equipment, facilities and infrastructure.** Plan, build, own, acquire, sell, trade
25 and lease equipment, facilities and other advanced communications technology
26 infrastructure that could be accessed and used by multiple communications service
27 providers, the State and local governments, including fiber-optic cables, towers, shelters,
28 easements, rights-of-way and wireless spectrum of frequencies, as long as the
29 infrastructure, facilities and equipment are accessible and open to any communications
30 service provider;

31 **5. Marketing.** Collaborate with the Department of Administrative and Financial
32 Services, Bureau of General Services to lead the management of marketing state
33 properties to encourage and expedite collocation of infrastructure;

34 **6. Sue and be sued.** Sue and be sued in its own name and plead and be impleaded;

35 **7. Administer and invest funds.** Administer its own funds and invest or deposit
36 funds that are not needed to meet the obligations of the initiative;

37 **8. Borrow.** Borrow money and give other evidence of indebtedness or obligations
38 and security consistent with the initiative's purpose and needs;

39 **9. Information.** Collect, aggregate, coordinate and disseminate information
40 regarding the availability of and need for advanced communications technology

1 infrastructure in the State and opportunities for funding for broadband infrastructure and
2 education; and

3 **10. Employees. Hire and compensate employees.**

4 **§9306. Limitations on activities of the initiative**

5 Notwithstanding any other provision of this chapter, the initiative may not provide
6 any wireline, wireless, satellite, voice, data or video service at retail or wholesale.

7 **§9307. Conflicts**

8 A member of the board may not participate in any decision on any contract entered
9 into by the initiative under this chapter if that member has any interest, direct or indirect,
10 in any firm, partnership, corporation or association that is party to the contract. The
11 member shall disclose such an interest to the initiative in writing, and the disclosure of
12 the interest must be set forth in the minutes of the applicable meeting of the initiative.

13 **§9308. Actions against the initiative**

14 A member of the board, while acting within the scope of this chapter, is not subject to
15 any personal liability resulting from the exercise or carrying out of any of the initiative's
16 purposes or powers.

17 **§9309. Collection of data**

18 Subject to the provisions in this section, the initiative shall collect data from
19 communications service providers and wireless providers that own or operate advanced
20 communications technology infrastructure in the State concerning infrastructure
21 deployment and costs, revenues and subscribership.

22 **1. Confidential information.** If the initiative, on its own or upon request of any
23 person or entity, determines that public access to specific information about
24 communications service providers in the State could compromise the security of public
25 utility systems to the detriment of the public interest or that specific information is of a
26 competitive or proprietary nature, the initiative shall designate that information as
27 confidential. Information that may be designated as confidential pursuant to this
28 subsection includes, but is not limited to, network diagrams. The initiative may designate
29 information as confidential under this subsection only to the minimum extent necessary to
30 protect the public interest or the legitimate competitive or proprietary interests of a
31 communications service provider.

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

34 **2. Protection of information.** A communications service provider may request that
35 confidential or proprietary information provided to the initiative under subsection 1 not
36 be viewed by those members of the board or staff who could gain a competitive
37 advantage from viewing the information. Upon receipt of such a request, the initiative
38 shall ensure that the information provided is viewed only by those members of the board

1 and staff who do not stand to gain a competitive advantage and that there are adequate
2 safeguards to protect that information from members of the board and staff who could
3 gain a competitive advantage from viewing the information.

4 **§9310. Bonds**

5 **1. Authorization.** The initiative may provide by resolution for the issuance of bonds
6 for the purpose of construction of advanced communications technology infrastructure
7 and for the fulfillment of other undertakings that it may assume. Bonds of the initiative
8 do not constitute a debt of the State or of any agency or political subdivision of the State
9 but are payable solely from the revenue of the initiative, and neither the faith nor credit
10 nor taxing power of the State or any political subdivision of the State is pledged to
11 payment of the bonds. Notwithstanding any other provision of law to the contrary, bonds
12 issued pursuant to this chapter are fully negotiable. If any member of the board whose
13 signature appears on the bond or coupons ceases to be a member of the board before the
14 delivery of those bonds, that signature is valid and sufficient for all purposes as if that
15 member of the board had remained a member of the board until delivery.

16 **2. Resolution; prospective issues.** The initiative may, by resolution authorizing
17 prospective issues, provide:

- 18 A. The manner of executing bonds and coupons;
- 19 B. The form and denomination of bonds or coupons;
- 20 C. Maturity dates;
- 21 D. Interest rates on bonds or coupons;
- 22 E. For redemption prior to maturity and the premium payable;
- 23 F. The place or places for the payment of interest and principal;
- 24 G. For registration if the initiative determines it to be desirable;
- 25 H. For the pledge of all or any of the revenue for securing payment;
- 26 I. For the replacement of lost, destroyed or mutilated bonds;
- 27 J. For the setting aside and the regulation and disposition of reserve and sinking
28 funds;
- 29 K. For limitation on the issuance of additional bonds;
- 30 L. For the procedure, if any, by which the contract with a bondholder may be
31 abrogated or amended;
- 32 M. For the manner of sale and purchase of bonds;
- 33 N. For covenants against pledging of any of the revenue of the initiative;
- 34 O. For covenants fixing and establishing rates and charges for use of the initiative's
35 facilities and services made available so as to provide funds that will be sufficient to
36 pay all costs of operation and maintenance, to meet and pay the principal and interest
37 of all bonds as they severally become due and payable, for the creating of such
38 revenues for the principal and interest of all bonds and for the meeting of

1 contingencies and the operation and maintenance of its facilities as the board
2 determines;

3 P. For covenants as to rates and charges other than those described in paragraph O as
4 the board determines;

5 Q. For covenants as to the rights, liability, powers and duties arising upon the breach
6 by the initiative of any covenant, condition or obligation;

7 R. For covenants as to the bonds to be issued, as to the issuance of those bonds in
8 escrow and otherwise and as to the use and disposition of the proceeds;

9 S. For covenants as to the use of the initiative's facilities and the maintenance and
10 replacement of the facilities, and the insurance to be carried on the facilities, and the
11 use and disposition of insurance money;

12 T. For the issuance of bonds in series;

13 U. For the performance of any and all acts that in the discretion of the board are
14 necessary, convenient or desirable to secure bonds or that tend to make bonds more
15 marketable; and

16 V. For the issuance of bonds on terms and conditions to effectuate the purposes of
17 this chapter.

18 **3. Money received.** All money received from any bonds issued by the initiative
19 must be applied for the construction of open access advanced communications
20 technology infrastructure and for the fulfillment of other undertakings that are within the
21 power of the initiative. There is created a lien upon the money until so applied in favor of
22 the bondholders or any member of the board as may be provided for the bonds.

23 **4. Trust indenture.** In the discretion of the board, bonds may be secured by a trust
24 indenture by and between the initiative and a corporate trustee, which may be any trust
25 company or bank having the powers of a trust company, located either within or outside
26 the State. Such a trust indenture may pledge or assign the revenues of the initiative or
27 any part of the revenues. Any trust indenture may set forth the rights and remedies of the
28 bondholders and the trustee, restrict the individual right of action of bondholders and
29 contain such other provisions as the board may consider reasonable and proper for the
30 security of bondholders. Expenses incurred in carrying out any trust indenture may be
31 treated as a part of maintenance.

32 **5. Rights of bondholders.** Provisions may be made for protecting and enforcing the
33 rights and remedies of bondholders, including covenants as to acquisition, construction,
34 maintenance, operation, repair and insurance of property and the custody, security and
35 application of all money.

36 **6. Depositories.** Any trust company or bank having the powers of a trust company
37 and located either within or outside the State may act as a depository of the proceeds of
38 bonds and revenue and may furnish such indemnity or pledge such securities as may be
39 required by the initiative.

1 7. Tax free. Notwithstanding any other provision of law to the contrary, because the
2 purposes of this chapter are public and for the benefit of the people of the State, bonds of
3 the initiative are free from taxation by the State.

4 **§9311. Maine Broadband Initiative Fund**

5 **1. Maine Broadband Initiative Fund established.** The Maine Broadband Initiative
6 Fund, referred to in this section as "the fund," is established within the initiative as a
7 nonlapsing fund administered by the initiative for the purposes of supporting the activities
8 and projects of the initiative under this chapter. The fund includes funds collected in
9 accordance with subsection 2.

10 **2. Fund sources.** The following sources of money must be paid into the fund:

11 A. Tax assessments collected pursuant to Title 36, section 457, subsection 5-B; and

12 B. Communications service provider assessments pursuant to subsection 3.

13 **3. Assessment.** Except for facilities-based providers of wireless voice or data retail
14 service, the initiative shall require every communications service provider to contribute
15 on a competitively neutral basis to the fund. The assessment may not exceed 0.25% of
16 the revenue received or collected for all communications services provided in this State
17 by the communications service provider. A facilities-based provider of wireless voice or
18 data retail service may voluntarily agree to be assessed by the authority under this
19 subsection.

20 **4. Explicit identification on customer bills.** A communications service provider
21 assessed pursuant to subsection 3 may recover the amount of the assessment from the
22 provider's customers. If a provider recovers the amount from its customers, it must
23 explicitly identify the amount owed by a customer on the customer's bill and indicate that
24 the funds are collected for use in the fund.

25 **Sec. 10. 36 MRSA §457, sub-§5-B, ¶E** is enacted to read:

26 E. The State Tax Assessor shall credit the tax assessment collected into the Maine
27 Broadband Initiative Fund established in Title 35-A, section 9311 no later than July
28 1st following the date of the assessment.

29 **Sec. 11. Transition.** The following provisions apply to the establishment of the
30 Maine Broadband Initiative pursuant to the Maine Revised Statutes, Title 35-A, chapter
31 93-A.

32 **1. Successor.** The Maine Broadband Initiative is the successor to the ConnectME
33 Authority.

34 **2. Board appointed.** Within 30 days of the effective date of this Act, the Governor,
35 Speaker of the House of Representatives and President of the Senate shall appoint
36 members of the Board of Directors of the Maine Broadband Initiative in accordance with
37 subsection 3.

1 **3. Staggered terms.** Notwithstanding Title 35-A, section 9303, subsection 4, in
2 making the initial appointments of members to the Board of Directors of the Maine
3 Broadband Initiative:

4 A. The Governor shall appoint 2 members to serve an initial term of one year, 2
5 members to serve an initial term of 2 years and 2 members to serve an initial term of
6 3 years. Members appointed pursuant to this paragraph may serve no more than 2
7 consecutive terms;

8 B. The Speaker of the House of Representatives shall appoint one member to serve
9 an initial term of one year and one member to serve an initial term of 3 years; and

10 C. The President of the Senate shall appoint 2 members to serve an initial term of 2
11 years.

12 **4. Employees of the ConnectME Authority.** Employees of the ConnectME
13 Authority on December 31, 2017 who accept employment with the Maine Broadband
14 Initiative may, at the employees' option, elect whether to continue as state employees or
15 to work under new agreements. Other persons who accept employment with the Maine
16 Broadband Initiative prior to January 1, 2018 who were state employees immediately
17 prior to accepting such employment may, at the employees' option, elect whether to
18 continue as state employees or to work under new agreements. Persons who accept
19 employment with the Maine Broadband Initiative and who elect to remain state
20 employees under this subsection retain their employee rights, privileges and benefits,
21 including sick leave, vacation and seniority, provided under the Civil Service Law or
22 collective bargaining agreements. Persons who accept employment with the Maine
23 Broadband Initiative and who elect to remain state employees under this subsection
24 remain members of the Maine Public Employees Retirement System as long as they
25 continue as state employees, and the Maine Broadband Initiative shall reimburse the State
26 for all costs related to employees who elect to remain state employees, including the
27 employer's share of contributions to the Maine Public Employees Retirement System.
28 Positions of employees who remain state employees under this subsection are terminated
29 when vacated by those employees, unless filled by other persons eligible to remain state
30 employees under this subsection who elect to remain state employees. Positions similar
31 to those terminated may be established by the Maine Broadband Initiative. For
32 employees who are not offered or who do not accept employment at the Maine
33 Broadband Initiative, the Department of Administrative and Financial Services, Bureau of
34 Human Resources shall provide employment assistance. Nothing in this section may be
35 construed to interfere with the rights of employees of the Maine Broadband Initiative to
36 organize for collective bargaining purposes in accordance with applicable law.

37 **5. Contracts.** All existing contracts, agreements and compacts currently in effect in
38 the ConnectME Authority remain in effect, and the Maine Broadband Initiative is the
39 successor to those contracts.

40 **6. Records, property and equipment.** All records, property and equipment of the
41 ConnectME Authority must be transferred to the Maine Broadband Initiative by January
42 1, 2018.

43 **Sec. 12. Effective date.** This Act takes effect January 1, 2018.

1

SUMMARY

2 This bill repeals the provisions of law establishing and governing the ConnectME
3 Authority and establishes the Maine Broadband Initiative as a nonprofit corporation with
4 public and charitable purposes to encourage, promote, stimulate, invest in and support
5 universal high-speed broadband to unserved and underserved areas of the State. The
6 initiative is governed by a board of directors. The bill establishes the Maine Broadband
7 Initiative Fund, which is funded by assessments on communications service providers and
8 tax assessments on qualified telecommunications equipment of telecommunications
9 businesses. The bill provides for a transition from the ConnectME Authority to the new
10 Maine Broadband Initiative.