

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 486

H.P. 384

House of Representatives, February 1, 2001

An Act to Implement a State Universal Service Fund.

(EMERGENCY)

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative COLWELL of Gardiner.
Cosponsored by Senator FERGUSON of Oxford and
Representatives: DUDLEY of Portland, LAVERRIERE-BOUCHER of Biddeford, MARLEY
of Portland, NORBERT of Portland, SAVAGE of Buxton, Senator: TREAT of Kennebec.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 **Whereas,** it is necessary that the State immediately adopt
legislation to direct implementation of a Universal Service Fund
prior to May 30, 2001 to address access rate reductions directed
8 by the Maine Revised Statutes, Title 35-A, section 7101-B; and

10 **Whereas,** the First Regular Session of the 120th Legislature
will not adjourn more than 90 days prior to May 30, 2001; and

12
14 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
16 necessary for the preservation of the public peace, health and
safety; now, therefore,

18
20 **Be it enacted by the People of the State of Maine as follows:**

22 **Sec. 1. 35-A MRSA §7104, sub-§3,** as amended by PL 1999, c. 60,
§1, is repealed.

24 **Sec. 2. 35-A MRSA §7104, sub-§§5 to 10** are enacted to read:

26 **5. Authority; universal service fund.** The commission shall
28 adopt rules to establish a universal service fund. The rules
established by this subsection must be consistent with the goals
30 set forth in any federal universal service support mechanism
adopted by this Title, the Federal Communications Commission and
32 the federal Telecommunications Act of 1996, Public Law 104-104,
110 Stat. 56 and must:

34 A. Identify and make explicit any embedded or implicit
36 subsidies existing in intrastate rates and provide support
for the loss of subsidies that result from the reduction of
38 a telephone utility's access charges. The rules adopted
under this paragraph must be adopted by May 30, 2001; and

40 B. Provide support to telephone utilities with high costs
42 for the provisioning of telephone utility service to ensure
that basic service rates are comparable throughout the
44 entirety of the State. The rules adopted under this
paragraph must be adopted by May 30, 2002.

46 Rules adopted under this subsection are routine technical rules
48 as defined in Title 5, chapter 375, subchapter II-A.

50 **6. Funding.** The commission may require providers of
intrastate telecommunications services to contribute to a

2 universal service fund required under subsection 5. For purposes
3 of this subsection, "providers of intrastate telecommunications
4 services" includes providers of radio paging service and mobile
5 telecommunications services.

6 7. Assessment. Prior to requiring contributions pursuant
7 to subsection 6 to a universal service fund required under
8 subsection 5, the commission shall assess the telecommunications
9 needs of the State's consumers and determine the level of support
10 required to meet those needs.

11 8. Requirements. Rules and the requirements of a universal
12 service fund required under subsection 5 that are established by
13 the commission pursuant to this section must:

14 A. Be reasonably designed to maximize federal assistance
15 available to the State for universal service purposes;

16 B. Meet the State's obligations under the federal
17 Telecommunications Act of 1996, Public Law 104-104, 110
18 Stat. 56;

19 C. Be consistent with the goals of the federal
20 Telecommunications Act of 1996, Public Law 104-104, 110
21 Stat. 56;

22 D. Ensure that any requirements regarding contributions to
23 a universal service fund required under subsection 5 be
24 nondiscriminatory and competitively neutral;

25 E. Require explicit identification on customer bills of
26 contributions to any state universal service fund required
27 under this section; and

28 F. Allow consideration in appropriate rate-making
29 proceedings of contributions to any universal service fund
30 required under subsection 5.

31 9. Administration. When the commission establishes a
32 universal service fund pursuant to subsection 5, the commission
33 shall contract with an appropriate independent fiscal agent that
34 is not a state entity to serve as administrator of the universal
35 service fund. Funds contributed to a universal service fund are
36 not state funds.

37 10. Just and reasonable rates. Nothing in this section
38 limits the requirement that intrastate telephone utilities charge
39 just and reasonable rates as required by section 301.

40 **Emergency clause.** In view of the emergency cited in the
41 preamble, this Act takes effect when approved.

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SUMMARY

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6 The purpose of this bill is to ensure that a state universal
service fund, or USF, is established to ensure that the reduction
8 of access rates required by the Maine Revised Statutes, Title
35-A, section 7101-B can continue as envisioned by the
Legislature. There have recently been a series of access rate
10 reductions planned and put into effect at the federal level that
Maine companies will be required to match pursuant to section
12 7101-B. However, there has been explicit recognition at the
federal level that there have long been embedded subsidies within
14 the access rates that have allowed basic rates to remain at the
affordable level that exists today. In order to offset the loss
16 of the embedded subsidies without causing basic rates to increase
dramatically, the Federal Communications Commission has created
18 and funded the Universal Service Fund. The federal fund,
however, applies only to interstate activities and thus does not
20 address the state reduction on intrastate access rates. In order
to match the reduction in federal access rates, Maine
22 rate-of-return-regulated-local-exchange carriers must receive a
similar USF offset to prevent basic rates from escalating sharply.

24

26 A state universal service fund is needed immediately as a
result of the ongoing access rate reductions required by the
Maine Revised Statutes, Title 35-A, section 7101-B in order to
28 create a mechanism that is equally applicable to all
rate-of-return-regulated-local-exchange carriers that will allow
30 companies to reduce their access rates while still maintaining a
reasonable rate of return and maintaining affordable and
32 comparable rates for local exchange customers throughout the
State.