

MAINE STATE LEGISLATURE

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(Filing No. H-1018)

UTILITIES AND ENERGY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1471, L.D. 2080, Bill, "An Act To Accelerate Private Investment in Maine's Wireless and Broadband Infrastructure"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 5 MRSA §12004-G, sub-§33-F is enacted to read:

Table with 4 columns: 33-F. Technology, ConnectME Authority, Not Authorized, 35-A MRSA §9203

Sec. 2. 5 MRSA §12004-I, sub-§85-A is enacted to read:

Table with 4 columns: 85-A. Technology, ConnectME Advisory Council, Not Authorized, 35-A MRSA §9206

Sec. 3. 35-A MRSA c. 93 is enacted to read:

CHAPTER 93

ADVANCED TECHNOLOGY INFRASTRUCTURE

§9201. Short title

This chapter may be known and cited as "the Advanced Technology Infrastructure Act."

§9202. Definitions

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

1. Advanced communications technology infrastructure. "Advanced communications technology infrastructure" means any communications technology infrastructure or infrastructure improvement that expands the deployment of, or improves the quality of, broadband availability and wireless service coverage.

2. Authority. "Authority" means the ConnectME Authority established in section 9203.

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

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

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

B. Any facilities-based provider of wireless voice or data retail service that voluntarily chooses to be assessed by the authority pursuant to section 9211.

5. Unserved or underserved area. "Unserved or underserved area" means an area that the authority pursuant to section 9204, subsection 2, paragraph B determines to meet criteria established by the authority by rule adopted pursuant to section 9205, subsection 3 in accordance with section 9204, subsection 1.

§9203. ConnectME Authority

1. Establishment; membership. The ConnectME Authority is established to stimulate investment in advanced communications technology infrastructure in unserved or underserved areas. The authority is created as a body corporate and politic and a public instrumentality of the State. The exercise by the authority of powers conferred by this chapter is considered to be the performance of essential governmental functions. The authority consists of the following 5 voting members:

A. The chair of the Public Utilities Commission or the chair's designee;

B. The Chief Information Officer of the State, or the officer's designee;

H. of S.

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- 2 C. One representative of consumers, appointed by the
3 Governor; and
- 4
- 6 D. Two members with significant knowledge of communications
7 technology, appointed by the Governor.
- 8 Compensation of members is as provided in Title 5, section
9 12004-G, subsection 33-F.
- 10
- 12 2. Terms; chair; vacancies. All members are appointed for
13 3-year terms. The Governor shall appoint a chair from among the
14 3 members appointed by the Governor. In the event of a vacancy in
15 the membership, the Governor shall appoint a replacement member
16 for the remainder of that vacated term. Each member of the
17 authority serves until that member's successor is appointed and
18 qualified. Any member of the authority is eligible for
19 reappointment.
- 20 3. Officers; quorum. The authority may elect a secretary
21 and a treasurer, who may, but need not, be members of the
22 authority. Three members of the authority constitute a quorum,
23 and the affirmative vote of 3 members is necessary for any action
24 taken by the authority.
- 26 4. Participation by members. A member may participate in a
27 meeting of the authority and place a vote electronically or
28 telephonically as long as members of the public have an
29 opportunity to listen to the deliberations of the authority and
30 otherwise participate in or observe the proceedings of the
31 authority consistent with Title 1, section 405.
- 32
- 34 5. Indemnification. Each member of the authority must be
35 indemnified by the authority against expenses actually and
36 necessarily incurred by the member in connection with the defense
37 of any action or proceeding in which the member is made a party
38 by reason of being or having been a member of the authority and
39 against any final judgment rendered against the member in that
40 action or proceeding.
- 42 6. Staff. At the request of the authority, the commission
43 or any other state agency with expertise in communications
44 services or advanced communications technology infrastructure
45 shall provide to the authority staff designated by the commission
46 or agency. Staff resources provided by the commission and other
47 agencies may not exceed in total the equivalent of 3 full-time
48 employees. The salaries and costs of such staff must be
49 allocated proportionately to the authority. The authority may
50 retain staff in addition to the staff designated and provided by
51 the commission or other state agencies.

2 **§9204. Duties of authority**

4 **1. Establish criteria defining unserved and underserved**
6 **areas. The authority, by rule adopted pursuant to section 9205,**
8 **subsection 3, shall establish criteria to define unserved and**
10 **underserved areas. The authority shall establish criteria that**
12 **ensure that an area is not determined to be an unserved or**
14 **underserved area if the effect of that determination would**
inhibit or impede private investment in any area or diminish the
value of prior investment in advanced communications technology
infrastructure within any area. Criteria established by the
authority must include but are not limited to whether investment
is planned in an area within a reasonable time.

16 **2. Enhance communications technology infrastructure. The**
18 **authority, through partnerships, grants, direct investment,**
20 **loans, demonstration projects and other appropriate means, shall,**
in a competitively neutral fashion and without giving preference
to any one form of technology over another:

22 **A. Monitor wireless coverage in areas where the authority**
24 **determines the quality of the coverage is inadequate;**

26 **B. Determine whether an area is an unserved or underserved**
area;

28 **C. Expand the availability of broadband to residential and**
30 **small business customers in unserved or underserved areas;**

32 **D. Expand the availability of broadband with bandwidth,**
34 **synchronicity, reliability and security adequate to serve**
business, education and enterprise consumers in unserved or
underserved areas;

36 **E. Otherwise enhance the State's communications technology**
38 **infrastructure in unserved and underserved areas; and**

40 **F. Cover reasonable administrative costs of the authority.**

42 **3. Additional duties. In addition to its duties**
established under this chapter, the authority shall:

44 **A. Collect, aggregate, coordinate and disseminate**
46 **information and data concerning communications services and**
48 **advanced communications technology infrastructure in the**
State;

50 **B. Track investment in advanced communications technology**
infrastructure;

2 C. Continually assess the availability of and need for
3 advanced communications technology infrastructure in
4 unserved or underserved areas within the State;

6 D. Identify and secure federal and other funding sources
7 for broadband or wireless deployment or education;

8
9 E. Identify opportunities for coordination among providers,
10 consumers and state and local governmental entities,
11 including coordination with the statewide emergency radio
12 network; and

14 F. Create and facilitate public awareness and educational
15 programs to encourage the use of broadband services.

16
17 4. Limitations on activities of the authority. The
18 authority may not develop, acquire, fund, coordinate or otherwise
19 undertake any project or make any grant, direct investment or
20 loan under this chapter unless:

22 A. The action is taken on behalf of, in partnership with or
23 in support of one or more communications service providers
24 that are remitting assessments to the authority under
25 section 9211; and

26
27 B. The authority determines that, without the authority's
28 action, the installation of adequate advanced communications
29 technology infrastructure in an unserved or underserved area
30 would not otherwise occur.

32 Notwithstanding any other provision of this chapter, the
33 authority may not provide any wireline, wireless, satellite,
34 voice, data or video service at retail or wholesale.

36 5. Public notice and opportunity for private investment.
37 Prior to taking any action described in subsection 4, the
38 authority shall provide public notice of its intention to take
39 the action. The authority may not take the action if a service
40 provider franchised or certificated to provide a communications
41 service to the area submits a timely certification to the
42 authority that the service provider will commence within 45 days
43 and will complete within one year the installation of sufficient
44 advanced communications technology infrastructure to provide
45 broadband or wireless service in a manner that would render the
46 authority's action unnecessary or redundant.

48 §9205. General powers

2 In order to carry out the purposes of this chapter, the
3 authority has the following powers with respect to a project
4 together with all powers incidental to or necessary for the
5 performance of these powers:

6 1. Power to sue and be sued. To sue or initiate or appear
7 in any proceeding. The authority may be sued on its written
8 contracts or in accordance with Title 1, section 409; Title 5,
9 chapter 375; or Title 14, chapter 741;

10 2. Official seal. To adopt and have an official seal and
11 alter the seal at pleasure;

12 3. Bylaws; rules. To adopt bylaws and any rule necessary
13 or useful for carrying out any of the authority's powers or
14 duties pursuant to this chapter. Rules adopted pursuant to this
15 subsection are major substantive rules as defined in Title 5,
16 chapter 375, subchapter 2-A;

17 4. Acquire real or personal property. To acquire real or
18 personal property or any interest in real or personal property,
19 including rights or easements, on either a temporary or long-term
20 basis by gift, purchase, transfer, foreclosure, lease or
21 otherwise; to improve, hold, sell with or without public bidding,
22 assign, lease, rent, encumber, mortgage or otherwise dispose of
23 any real or personal property, any interest in real or personal
24 property or mortgage interests owned or in its control, custody
25 or possession; and to release or relinquish any right, title
26 claim, lien, interest, easement or demand, however acquired,
27 including threat of foreclosure;

28 5. Prepare and plan projects and facilities. To prepare or
29 cause to be prepared plans, specifications, designs and estimates
30 of costs for the construction and equipment for a project and
31 attendant facilities and from time to time to modify or cause to
32 be modified those plans, specifications, designs or estimates;

33 6. Improve and equip project and attendant facilities. By
34 contract or contracts to construct, acquire, alter, repair,
35 reconstruct, rehabilitate, improve and equip a project and
36 necessary and usual attendant facilities;

37 7. Maintain, reconstruct and operate. To maintain,
38 reconstruct and operate, or cause to be maintained, reconstructed
39 and operated, a project;

40 8. Fix and collect fees. To fix and collect fees,
41 lease-rentals and other charges for the use of a project to
42 transmit voice, data or video signals and to provide for the
43 adoption of such reasonable and proper rules as may be necessary
44

2 to ensure the maximum use at all times of the facilities of any
3 project;

4 9. Provide for financing or refinancing. To provide
5 financing for a project or to provide for refinancing of existing
6 indebtedness and for the financing of the project and of other
7 necessary and usual attendant facilities;

8
9 10. Make and execute contracts. To make and execute
10 contracts and other instruments and enter into such transactions
11 as necessary or convenient for the exercise of the authority's
12 powers and functions under this chapter;

13 11. Agreements; acceptances; contributions; aid; grants. To
14 enter into agreements with and accept loans, aid, contributions,
15 grants and the cooperation or assistance of the United States, or
16 any agency of the United States, or of the State or any agency or
17 governmental subdivision in furtherance of the purposes of this
18 chapter, including, but not limited to, the development and
19 financing of a project, and to do all things necessary in order
20 to avail the authority of those loans, aid, contributions, grants
21 and cooperation;

22
23 12. Accept aid or contributions. To receive and accept
24 from any source aid or contributions of money, property, labor or
25 other things of value, to be held, used and applied to carry out
26 the purposes of this chapter, subject to the conditions upon
27 which those grants and contributions are made, including, but not
28 limited to, gifts or grants from any department or agency of the
29 United States or the State for any purpose consistent with this
30 chapter;

31
32 13. Insurance. To procure insurance against any loss in
33 connection with the authority's securities and its property and
34 other assets in such amounts and from such insurers as it
35 considers desirable;

36
37 14. Modification of contract, lease, indenture or
38 agreement. To consent to any modification of any contract,
39 lease, indenture or agreement of any kind to which the authority
40 is a party;

41
42 15. Manage or operate real and personal property. To
43 manage or operate, or cause to be managed or operated, real and
44 personal property, to take assignments of leases and rentals or
45 to take any other action necessary or incidental to the
46 performance of the authority's duties under this chapter;

47
48 16. Lease or rent facilities or equipment used to transmit
49 voice, data or video signals. To lease or rent any facilities or
50

equipment for a project for such amounts as the authority determines to a communications service provider to further the purposes of this chapter, as long as the obligation of the service provider is considered a binding contract with the authority and as long as no liability on account of the authority may be incurred beyond the money available for that purpose and may be considered a liability of the State;

17. Investments. Except as otherwise provided in this chapter, to invest any funds not needed for immediate use, including any funds held in reserve, in property or in securities in which fiduciaries in the State may legally invest funds;

18. Appearances. To appear on the authority's own behalf before boards, commissions, departments or agencies of a municipality or the State Government or the Federal Government;

19. Executive director; other employees. To employ an executive director, consulting engineers, architects, attorneys, accountants, construction and financial experts and such other employees and agents as may be necessary in the authority's judgment; and

20. All acts granted or implied. To do any act necessary or convenient to exercise the powers granted in this chapter or reasonably implied by this chapter.

§9206. ConnectME Advisory Council

The ConnectME Advisory Council, referred to in this section as "the advisory council," is established to advise the authority in accordance with this section.

1. Membership. The advisory council is composed of the following members:

A. Four members who have experience with issues concerning advanced communications technology infrastructure, appointed by the Governor;

B. Two members who have experience with issues concerning the telecommunications and technology infrastructure implemented by the State's education community, appointed by the Governor;

C. One member who serves on the Maine Telecommunications Education Access Fund Advisory Board established by rules adopted by the commission, or a successor board, appointed by the Governor;

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2 D. One member from the Maine Technology Institute appointed
3 by the Director of the Office of Innovation within the
4 Department of Economic and Community Development;

6 E. One member representing the Small Enterprise Growth
7 Fund, established in Title 10, section 383, appointed by the
8 Director of the Office of Innovation within the Department
9 of Economic and Community Development; and

10 F. Up to 2 additional members, appointed by the authority,
11 as needed to ensure adequate representation and expertise.

12 Compensation of members is as provided in Title 5, section
13 12004-I, subsection 85-A.

16 2. Duties; rules. The advisory council shall provide
17 advice and counsel to the authority on technical, policy,
18 financial and economic issues. The advisory council shall also
19 perform limited functions assigned to it by the authority or as
20 provided for by rule adopted by the authority pursuant to section
21 9205, subsection 3.

22 **§9207. Collection of data**

24 Subject to the provisions in this section, the authority may
25 collect data from communications service providers and any
26 wireless provider that own or operate advanced communications
27 technology infrastructure in the State concerning infrastructure
28 deployment and costs, revenues and subscribership.

30 1. Confidential information. If the authority, on its own
31 or upon request of any person or entity, determines that public
32 access to specific information about communications service
33 providers in the State could compromise the security of public
34 utility systems to the detriment of the public interest or that
35 specific information is of a competitive or proprietary nature,
36 the authority shall issue an order designating that information
37 as confidential. Information that may be designated as
38 confidential pursuant to this subsection includes, but is not
39 limited to, network diagrams. The authority may designate
40 information as confidential under this subsection only to the
41 minimum extent necessary to protect the public interest or the
42 legitimate competitive or proprietary interests of a
43 communications service provider. The authority shall adopt rules
44 pursuant to section 9205, subsection 3 defining the criteria it
45 will use to satisfy the requirements of this paragraph and the
46 types of information that would satisfy the criteria. The
47 authority may not designate any information as confidential under
48 this subsection until those rules are finally adopted.

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

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

§9208. Legislative oversight; report to committee

No later than January 15th of each year, the authority shall provide a report to the joint standing committee of the Legislature having jurisdiction over utilities matters that:

1. Budget. Includes a report on the budget of the authority;

2. Activities. Documents the activities of the authority, including review of applications for funding received by the authority;

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

4. Market conditions. Contains an analysis of the availability of communications services and advanced communications technology infrastructure, including an analysis of the competitive market in the State for communications services and advanced communications technology infrastructure and whether the communications services provided in the State are reasonably comparable to services provided regionally and nationwide.

After receiving a report under this section, the joint standing committee of the Legislature having jurisdiction over utilities matters may report out legislation relating to the authority.

§9209. Conflicts

2 A member of the authority may not participate in any
3 decision on any contract entered into by the authority under this
4 chapter if that member has any interest, direct or indirect, in
5 any firm, partnership, corporation or association that is party
6 to the contract. The interest must be disclosed to the authority
7 in writing and must be set forth in the minutes of the authority.

8 **§9210. Actions against authority**

10 A member of the authority, while acting within the scope of
11 this chapter, is not subject to any personal liability resulting
12 from the exercise or carrying out of any of the authority's
13 purposes or powers.

14 **§9211. ConnectME Fund**

16 1. ConnectME Fund established. The ConnectME Fund,
17 referred to in this section as "the fund," is established as a
18 nonlapsing fund administered by the authority for the purposes of
19 supporting the activities and projects of the authority under
20 this chapter.

22 2. Assessment. After receiving authorization pursuant to
23 Title 5, section 8072 to finally adopt major substantive rules
24 under section 9205, subsection 3 or after January 15, 2007,
25 whichever is later, the authority may require every
26 communications service provider to contribute on a competitively
27 neutral basis to the fund. The assessment may not exceed 0.25%
28 of the revenue received or collected for all communications
29 services provided in this State by the communications service
30 provider. A facilities-based provider of wireless voice or data
31 retail service may voluntarily agree to be assessed by the
32 authority as a communications service provider under this
33 subsection.

34 3. Explicit identification on customer bills. A
35 communications service provider assessed pursuant to subsection 2
36 may recover the amount of the assessment from the provider's
37 customers. If a provider recovers the amount from its customers,
38 it must explicitly identify the amount owed by a customer on the
39 customer's bill and indicate that the funds are collected for use
40 in the ConnectME Fund.

41 **§9212. Gifts and contributions**

42 The authority may accept gifts and contributions on behalf
43 of the authority for the purpose of designing, constructing,
44 reconstructing, renovating or acquiring a project.

The authority, in accepting gifts of money, federal funds or other types of income, shall place this money in a special account for the purpose for which it is provided. The authority may invest the money in accordance with the purposes of this chapter, subject to any limitations imposed by the donor.

§9213. Use of revenues

The revenues derived by the authority from any assessment, transfer of funds, lease, assignment, rental agreement or other disposition or any other revenue must be used for the purposes of this chapter and applied in a competitively neutral fashion and without giving preference to any one form of technology over another.

§9214. No franchise fees

The authority may not establish or collect a franchise fee pursuant to 47 United States Code, Section 542 or Title 30-A, section 3008. If any tax, fee, charge or assessment or portion thereof established by the authority is held by a court of competent jurisdiction to be a franchise fee, the imposition of that tax, fee, charge or assessment or portion thereof is unenforceable.

§9215. Repeal

This chapter is repealed January 31, 2009.

Sec. 4. 36 MRSA §2017 is enacted to read:

§2017. Reimbursement of certain taxes relating to advanced communications technology infrastructure

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.

B. "Authority" has the same meaning as in Title 35-A, section 9202.

C. "Qualifying ConnectME zone" means a geographical area that is eligible for tax reimbursement under this section because the authority has determined that the area is an unserved or underserved area.

2 2. Reimbursement allowed. Following final adoption of
3 rules under subsection 7, but in no event earlier than July 1,
4 2007, a reimbursement is allowed as provided in this section for
5 taxes paid pursuant to this Part with respect to machinery and
6 equipment purchased for use by a person to develop an advanced
7 communications technology infrastructure in a qualifying
8 ConnectME zone.

9 3. Claim for reimbursement. A claim for reimbursement
10 under this section must be filed with the assessor within 3 years
11 from the date on which the machinery and equipment was
12 purchased. The purchaser shall submit the reimbursement claim on
13 a form prescribed by the assessor and must include a statement
14 from the authority certifying that the machinery and equipment is
15 being used primarily to develop an advanced communications
16 technology infrastructure in a qualifying ConnectME zone. The
17 purchaser and the authority shall retain all records pertaining
18 to such certification and to the purchases in question for at
19 least 6 years. The reimbursement claim must be accompanied by
20 such additional information as the assessor may require.

21 4. Reimbursement limit. The authority may not certify for
22 reimbursement under this section a total amount in excess of
23 \$500,000 in any state fiscal year.

24 5. Audit. The assessor may audit any claim filed under
25 this section. If the assessor determines that the amount of the
26 claimed reimbursement is incorrect, the assessor shall
27 redetermine the claim and notify the claimant in writing of the
28 redetermination. If the claimant has received reimbursement of
29 an amount that the assessor concludes should not have been
30 reimbursed, the assessor may issue an assessment for that amount
31 within 3 years from the date the reimbursement claim was filed or
32 at any time if a fraudulent reimbursement claim was filed. The
33 claimant may seek reconsideration pursuant to section 151 of the
34 redetermination or assessment.

35 6. Payment of claims. Within 30 days after receipt of a
36 properly completed claim under this section, the assessor shall
37 inform the State Controller of the certified amounts that are to
38 be reimbursed to the claimant. The State Controller shall make
39 the reimbursement and shall account for and pay it as a sales and
40 use tax refund. Interest is not allowed on any payment made to a
41 claimant pursuant to this section.

42 7. Rulemaking. The authority in cooperation with the
43 assessor shall develop rules as necessary to administer this
44 section. Rules adopted pursuant to this section are major
45 substantive rules as defined in Title 5, chapter 375, subchapter
46 2-A.

2 **8. Repeal.** This section is repealed January 31, 2009.

4 **Sec. 5. Staggered terms.** Notwithstanding the Maine Revised
6 Statutes, Title 35-A, section 9203, subsection 2, for the initial
appointments to the ConnectME Authority, the Governor shall
8 appoint one member for a one-year term, one member for a 2-year
term and one member for a 3-year term.

10 **Sec. 6. Temporary transfer of funds authorized.** For purposes of
12 funding activities of the ConnectME Authority under the Maine
Revised Statutes, Title 35-A, chapter 93, the Public Utilities
14 Commission may, upon request of the authority, transfer to the
ConnectME Fund, established pursuant to Title 35-A, section 9211,
16 up to \$500,000 of previously collected but unallocated funds held
by the commission in the universal service fund pursuant to Title
35-A, section 7104. The authority may not request and the
18 commission may not undertake any transfer of funds to the
ConnectME Fund under this section until the authority receives
20 authorization pursuant to Title 5, section 8072 to finally adopt
major substantive rules under Title 35-A, section 9205,
22 subsection 3 or until after January 15, 2007, whichever is
later. Once the authority has collected \$500,000 in the
24 ConnectME Fund through assessments collected pursuant to Title
35-A, section 9211, the authority shall transfer to the universal
26 service fund an amount equal to the amount transferred from the
universal service fund to the authority under this section. Upon
28 receipt of the transfer into the universal service fund, the
commission shall ensure the return of the funds to ratepayers by
30 amending the quarterly assessments made pursuant to Title 35-A,
section 7104.

32 **Sec. 7. Submission of plan; authority to report out legislation.** No
34 later than January 31, 2008, the ConnectMe Authority, established
under the Maine Revised Statutes, Title 35-A, section 9203, shall
36 submit to the joint standing committee of the Legislature having
jurisdiction over utilities matters a plan, together with
38 necessary implementing legislation, providing for the winding up
of the authority's affairs, the disposition of assets and other
40 matters pertaining to the affairs of the authority. The joint
standing committee of the Legislature having jurisdiction over
42 utilities matters shall report out legislation to the Second
Regular Session of the 123rd Legislature providing for the
44 winding up of the authority's affairs or the repeal of Title
35-A, section 9215.'

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H. 978

SUMMARY

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This amendment replaces the bill. Much of the substance of the bill is retained. The amendment:

1. Changes the name of the Advanced Technology Infrastructure Authority and the Advisory Council on Advanced Technology Investment to the ConnectME Authority and the ConnectME Advisory Council, respectively, and clarifies that members of each are not entitled to compensation for their work on the authority or the council;

2. Provides that the chair of the Public Utilities Commission and the Chief Information Officer may appoint designees to serve on their behalf on the authority;

3. Provides that the Director of the Office of Innovation within the Department of Economic and Community Development appoint the members of the advisory council representing the Maine Technology Institute and the Small Enterprise Growth Fund;

4. Limits the authority of the ConnectME Authority to undertake projects. These limits are designed to ensure that the projects are only undertaken in an unserved or underserved area and that advanced communications technology infrastructure would not otherwise be provided in the area without the assistance of the authority. The authority is also prohibited from providing communications services or wireless services at retail or wholesale;

5. Removes the provision of the bill providing for perpetual succession of the authority and repeals all the provisions relating to the authority on January 31, 2009. It directs the authority to submit a year prior to that date a plan with implementing legislation for winding up its affairs;

6. Adds to the authority's reporting requirements that the authority report annually on the availability of communications services and advanced communications technology infrastructure as well as market conditions in the State;

7. Expressly prohibits the authority from collecting cable franchise fees;

8. Limits the authority's ability to designate information as confidential and requires the authority to adopt major substantive rules regarding confidentiality;

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2 9. Authorizes the authority to use the services of up to 3
full-time employees from agencies with expertise in matters
relating to the purposes of the authority;

4
6 10. Allows the authority to use up to \$500,000 from the
state universal service fund but requires the authority to
reimburse the fund. These funds are not made available to the
8 authority until it receives authorization to finally adopt its
governing rules, which are major substantive rules;

10
12 11. Establishes an assessment on communications service
providers to fund the authority. Facilities-based wireless
14 providers may choose to be assessed and thereby become eligible
to partner with the authority in its projects. This assessment
is delayed, however, until the authority receives authorization
16 to finally adopt its governing rules, which are major substantive
rules; and

18 12. Makes a variety of technical changes.
20

22 **FISCAL NOTE REQUIRED**
24 **(See attached)**



122nd MAINE LEGISLATURE

LD 2080

LR 3122(02)

An Act to Accelerate Private Investment in Maine's Wireless and Broadband Infrastructure

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Utilities and Energy

Fiscal Note Required: Yes

Fiscal Note

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Net Cost (Savings)				
General Fund	\$0	\$0	\$474,000	\$474,000
Revenue				
General Fund	\$0	\$0	(\$474,000)	(\$474,000)
Other Special Revenue Funds	\$0	\$0	(\$26,000)	(\$26,000)

Fiscal Detail and Notes

This legislation will reduce Sales and Use Tax revenue by up to \$500,000 beginning in fiscal year 2007-08. It establishes a ConnectMe Authority to be governed by a five member board. The authority is authorized to receive up to \$500,000 of previously collected but unallocated funds within the Maine Universal Service Fund as start up funds but requires the authority to reimburse the fund for this one-time advance. It also establishes an assessment on communications service providers to fund the authority's operations and to pay back the universal services fund. The increase in revenue to the ConnectMe fund as a result of the proposed assessment can not be determined at this time and is contingent on the promulgation of major substantive rules.

The legislation also stipulates that the Public Utilities Commission or any other state agency including the Governor's Office shall provide staff of up to 3 full-time positions as designated by the commission or agency. The authority may also retain additional staff if required, including an executive director. The Public Utilities Commission anticipates that they have the resources available to provide staff support to the Authority in fiscal year 2006-07. The future availability of commission staff resources during the next biennium can not be determined at this time.

The additional costs associated with serving on the ConnectME Authority by the Chief Information Officer and the Chair of the Public Utilities Commission can be absorbed utilizing existing budgeted resources. The additional costs associated with serving on the ConnectME Advisory Council by a member of the Maine Technology Institute and a member representing the Small Enterprise Growth Fund can be absorbed utilizing existing budgeted resources.