

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1646

H.P. 1174

House of Representatives, December 23, 2009

An Act To Establish a Broadband Policy for Maine

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 21, 2009. Referred to the Committee on Utilities and Energy pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative FLAHERTY of Scarborough.
Cosponsored by Senator BARTLETT of Cumberland and
Representatives: DOSTIE of Sabattus, FLEMINGS of Bar Harbor, HINCK of Portland,
MacDONALD of Boothbay, McCABE of Skowhegan, MORRISON of South Portland,
PENDLETON of Scarborough.

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

3 **Whereas,** the availability of broadband service to all Maine residents is an important
4 tool for economic growth and opportunity; and

5 **Whereas,** the federal American Recovery and Reinvestment Act of 2009 has set
6 aside \$7,200,000,000 for broadband expansion in unserved and underserved areas of the
7 Nation; and

8 **Whereas,** part of the process for receiving federal funds includes a review by Maine
9 to determine whether each grant application is consistent with the State's broadband
10 policy; and

11 **Whereas,** Maine currently has no articulated broadband policy; and

12 **Whereas,** all grant awards under the federal American Recovery and Reinvestment
13 Act of 2009 are scheduled to be awarded prior to the commencement of the 125th
14 Legislature; and

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

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

20 **Sec. 1. 35-A MRSA §9202, sub-§2-A** is enacted to read:

21 **2-A. Broadband.** "Broadband" means a connection to the Internet with a minimum
22 data transfer rate of 768 kilobits per second either uploading or downloading data.

23 **Sec. 2. 35-A MRSA §9204, sub-§3, ¶E,** as enacted by PL 2005, c. 665, §3, is
24 amended to read:

25 E. Identify opportunities for coordination among providers, consumers and state
26 and local governmental entities, including coordination with the statewide emergency
27 radio network; and

28 **Sec. 3. 35-A MRSA §9204, sub-§3, ¶F,** as enacted by PL 2005, c. 665, §3, is
29 amended to read:

30 F. Create and facilitate public awareness and educational programs to encourage the
31 use of broadband services; and

32 **Sec. 4. 35-A MRSA §9204, sub-§3, ¶G** is enacted to read:

33 G. Develop target prices for broadband services pursuant to section 9218, subsection
34 1 and establish a fund to assist rural customers in receiving broadband services
35 pursuant to section 9218, subsection 2.

1 **Sec. 5. 35-A MRSA §9216** is enacted to read:

2 **§9216. State broadband policy**

3 It is the goal of the State to achieve 100% broadband availability for all residential
4 and business locations in the State no later than December 31, 2012 and to develop a
5 sustainable forward-looking infrastructure that will promote affordable Internet service
6 that exceeds minimum broadband service in all areas of the State. It is the policy of the
7 State to maximize sustainable private investment in broadband infrastructure in the State
8 and ensure that state policies are designed to promote broadband infrastructure
9 deployment and availability to all residents and small businesses in the State.

10 **Sec. 6. 35-A MRSA §9217** is enacted to read:

11 **§9217. State and federal support for broadband infrastructure**

12 All state agencies and state entities shall:

13 **1. Maximize resources.** Maximize federal grant resources and competitively neutral
14 private investment opportunities to support the deployment of upgradable broadband
15 infrastructure in unserved areas of the State;

16 **2. Prioritize use of resources.** Prioritize the use of state broadband resources to
17 assist competitively neutral private infrastructure deployment in unserved areas of the
18 State;

19 **3. Online availability.** Maximize the number of permits and licenses from the State
20 that may be obtained or renewed online at rates less than the rates set for obtaining or
21 renewing the permits or licenses in person;

22 **4. Broadband infrastructure.** Ensure that no state agency or entity engages in
23 practices that inhibit new private investment in broadband infrastructure or diminish the
24 value of existing private broadband infrastructure investment; and

25 **5. Taxes or fees.** To the extent that agency interpretation is necessitated, ensure that
26 any taxes or fees assessed on infrastructure used to deploy broadband services are not
27 implemented in a manner that results in costs to the owner of the infrastructure that
28 exceed what the costs to the owner of the infrastructure would be if the owner of the
29 infrastructure were paying personal property tax to the municipalities in which the
30 infrastructure is located.

31 **Sec. 7. 35-A MRSA §9218** is enacted to read:

32 **§9218. Advanced broadband opportunities**

33 In order to promote broadband services that exceed the minimum broadband
34 requirements at affordable rates for residential customers and small businesses, the
35 ConnectME Authority shall:

1 1. Provides a definition of "broadband," using as a model the broadband baseline
2 used by the United States Federal Communications Commission;

3 2. Establishes a goal of 100% deployment of baseline broadband service by the end
4 of 2012 and establishes a policy of promoting sustainable private investment to increase
5 broadband service that exceeds the minimum levels throughout the State;

6 3. Requires state agencies to assist in promoting private investment in broadband
7 infrastructure to stimulate rapid and sustainable deployment of broadband services; and

8 4. Requires the ConnectME Authority to develop target prices for broadband
9 services and establish competitively neutral discounts to customers in areas where
10 services are more expensive than the average metropolitan rates.