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Date: (Filing No. H-)

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
SECOND REGULAR SESSION**

HOUSE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to H.P. 207, L.D. 307, “An Act Regarding Energy, Utilities and Technology”

Amend the amendment in section 1 in the 2nd line (page 1, line 17 in amendment) by inserting after the following: "contrary," the following: 'except as provided in section 3,'

Amend the amendment by inserting after section 2 the following:

Sec. 3. Exemption for certain data centers. Notwithstanding any provision of section 1 to the contrary, a proposed data center, as defined in section 1 and referred to in this section as "the data center," is exempt from the provisions of section 1 if it meets the requirements of this section.

1. Site restrictions. The exemption applies if, prior to the effective date of this Act:

A. The data center developer has entered into a binding lease or purchase agreement and has demonstrated site control for the property on which the data center is planned to be constructed or operated;

B. The property on which the data center is to be constructed or operated is a former industrial site with existing electrical transmission and distribution functionality that supported industrial or electric generation use and for which the data center developer provides the results of a system impact analysis provided by the transmission and distribution utility that served the site or, if applicable, ISO-New England, as well as agreements with the transmission and distribution utility and, if applicable, ISO-New England. As used in this paragraph, "ISO-New England" means the independent system operator of the New England bulk power system; and

C. The data center developer has identified a maximum electric utility demand of 82 megawatts for the data center, supported by documentation provided to the Public Utilities Commission, and the demand does not exceed the level evaluated by the Public Utilities Commission pursuant to subsection 2 and may not be increased except as provided in this section.

2. Determination by Public Utilities Commission. Upon the receipt of a filing by a data center developer, the Public Utilities Commission shall conduct a proceeding and may approve the data center only upon a finding, based on substantial evidence in the record, including verification of compliance with subsection 1, that:

HOUSE AMENDMENT

- 1 A. The data center will not result in material cost-shifting to electric utility ratepayers;
- 2 B. All transmission, distribution, interconnection and related infrastructure costs
- 3 required to serve the data center are fully borne by the data center and are not recovered
- 4 through an increase in rates on other utility ratepayers;
- 5 C. The data center will not materially adversely affect electric system reliability,
- 6 including peak demand impacts and regional resource adequacy issues;
- 7 D. The data center's projected water withdrawals, consumption and wastewater
- 8 discharge will not materially burden local or regional water supplies or wastewater
- 9 infrastructure;
- 10 E. Any natural gas usage associated with the data center, including on-site or backup
- 11 electric generation, will not result in infrastructure costs borne by other natural gas
- 12 customers; and
- 13 F. The data center's electric utility demand does not exceed the maximum level
- 14 documented pursuant to subsection 1, paragraph C.

15 The Public Utilities Commission may impose conditions necessary to ensure compliance
16 with this subsection. To the greatest extent practicable, the Public Utilities Commission
17 shall make a determination within 150 days of the effective date of the filing by the
18 applicant.

19 The Public Utilities Commission may assess a filing fee on a data center developer to cover
20 any costs incurred by the Public Utilities Commission, including but not limited to
21 consulting services associated with the proceeding required pursuant to this subsection.
22 Filing fees paid as required under this subsection must be segregated, apportioned and
23 expended by the commission for the purposes of this subsection. Any portion of the filing
24 fee that is received from a data center developer and is not expended by the commission
25 must be returned to the data center developer.

26 **3. Limitation on expansion; filing fee.** A data center for which approval was received
27 pursuant to subsection 2 may not increase its maximum electric demand beyond the level
28 approved by the Public Utilities Commission unless the commission, after notice and a
29 proceeding, determines that the data center continues to meet the criteria in subsection 2.

30 The Public Utilities Commission may assess a filing fee on a data center developer to cover
31 any applicable costs incurred by the commission, including but not limited to consulting
32 services associated with the proceeding required pursuant to this subsection. Filing fees
33 paid as required under this subsection must be segregated, apportioned and expended by
34 the commission for the purposes of this subsection. Any portion of the filing fee that is
35 received from a data center developer and is not expended by the commission must be
36 returned to the data center developer.

37 **4. Construction timelines.** An exemption granted under this section is void unless
38 construction of the data center commences within 12 months of completion of the Public
39 Utilities Commission review under subsection 2.

40 **5. Limitation on financial incentive.** Notwithstanding any provision of law to the
41 contrary, the Department of Economic and Community Development may not approve a
42 municipal tax increment financing application for a data center that includes a credit
43 enhancement agreement for a data center developer or an employment tax increment

1 financing application that includes a data center. The department may approve a municipal
2 tax increment program if the sheltered tax revenues generated by a data center are retained
3 by the municipality for statutorily permitted municipal uses.

4 A state agency or quasi-independent entity may not approve, award or disburse state-
5 funded financial incentives, tax credits, grants or loans for a data center under this section
6 during the temporary limitation established in section 1.

7 **6. No segmentation.** For purposes of this section, electric utility demand must be
8 calculated based on the total aggregated electric utility demand at a single site or contiguous
9 parcels under common ownership or control. The development of a data center may not be
10 divided into phases or affiliated entities to obtain the exemption provided by this section.

11 **7. No establishment of precedent.** An exemption granted pursuant to this section
12 may not be construed to establish precedent for the Maine Data Center Coordination
13 Council, convened pursuant to section 2, the Public Utilities Commission or any other state
14 agency in developing recommendations, policies or regulatory frameworks applicable to
15 data centers.

16 **8. Approval by referendum.** A data center that otherwise meets the requirements of
17 this section must also be approved by the voters of the municipality in which the data center
18 is proposed to be located by referendum election held in 2026.'

19 Amend the amendment by relettering or renumbering any nonconsecutive Part letter or
20 section number to read consecutively.

21 SUMMARY

22 This amendment exempts from the provisions of Committee Amendment "A" a data
23 center that, prior to the effective date of the legislation, meets specified criteria, such as:

24 1. The developer entered into a lease or purchase agreement for property on which the
25 data center is planned to be constructed or operated;

26 2. The property on which the data center is to be constructed or operated is a former
27 industrial site with existing electrical transmission and distribution functionality that
28 supported industrial or electric generation use;

29 3. Following the receipt of a filing by a data center developer, the Public Utilities
30 Commission finds, after a proceeding, that:

31 A. The data center will not result in material cost-shifting to electric utility ratepayers;

32 B. All transmission, distribution, interconnection and related infrastructure costs
33 required to serve the data center are fully borne by the data center and are not recovered
34 through an increase in rates on other utility ratepayers;

35 C. The data center will not materially adversely affect electric system reliability,
36 including peak demand impacts and regional resource adequacy issues;

37 D. The data center's projected water withdrawals, consumption and wastewater
38 discharge will not materially burden local or regional water supplies or wastewater
39 infrastructure;

1 E. Any natural gas usage associated with the data center, including on-site or backup
2 electric generation, will not result in infrastructure costs borne by other natural gas
3 customers; and

4 F. The data center's electric utility demand does not exceed the maximum level
5 documented to the Public Utilities Commission;

6 4. Any expansion in electric utility demand is approved by the Public Utilities
7 Commission;

8 5. The data center is not included in a credit enhancing agreement for a tax increment
9 financing application or in an employment tax increment financing application. The
10 Department of Economic and Community Development is prohibited from approving such
11 an agreement. During the moratorium on data centers, state agencies and quasi-independent
12 entities are prohibited from awarding or disbursing any type of state-funded grant, tax
13 credit, incentives or loans;

14 6. The data center construction commences within 12 months of the completion of the
15 review by the Public Utilities Commission; and

16 7. The municipality in which the data center is proposed to be located approves the
17 data center by referendum held in 2026.

18 **SPONSORED BY:** _____

19 **(Representative SACHS, M.)**

20 **TOWN: Freeport**