

114TH CONGRESS
1ST SESSION

S. 240

To promote competition, to preserve the ability of local governments to provide broadband capability and services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2015

Mr. BOOKER (for himself, Mr. MARKEY, and Mrs. McCASKILL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To promote competition, to preserve the ability of local governments to provide broadband capability and services, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Broadband
5 Act of 2015”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

8 (1) the term “advanced telecommunications ca-
9 pability” has the meaning given the term in section

1 706(d)(1) of the Telecommunications Act of 1996
2 (47 U.S.C. 1302(d)(1));

3 (2) the term “advanced telecommunications ca-
4 pability or services” means—

5 (A) advanced telecommunications capa-
6 bility; or

7 (B) services using advanced telecommuni-
8 cations capability;

9 (3) the term “Indian tribe” has the meaning
10 given the term in section 4(e) of the Indian Self-De-
11 termination and Education Assistance Act (25
12 U.S.C. 450b(e));

13 (4) the term “public provider” means—

14 (A) a State or political subdivision thereof;

15 (B) any agency, authority, or instrumen-
16 tality of a State or political subdivision thereof;

17 (C) an Indian tribe; or

18 (D) any entity that is owned by, controlled
19 by, or otherwise affiliated with—

20 (i) a State or political subdivision
21 thereof;

22 (ii) an agency, authority, or instru-
23 mentality of a State or political subdivision
24 thereof; or

25 (iii) an Indian tribe; and

1 (5) the term “telecommunications service” has
 2 the meaning given the term in section 3 of the Com-
 3 munications Act of 1934 (47 U.S.C. 153).

4 **SEC. 3. LOCAL GOVERNMENT PROVISION OF TELE-**
 5 **COMMUNICATIONS SERVICE AND ADVANCED**
 6 **TELECOMMUNICATIONS CAPABILITY AND**
 7 **SERVICES.**

8 No statute, regulation, or other legal requirement of
 9 a State or local government may prohibit, or have the ef-
 10 fect of prohibiting or substantially inhibiting, any public
 11 provider from providing telecommunications service or ad-
 12 vanced telecommunications capability or services to any
 13 person or any public or private entity.

14 **SEC. 4. SAFEGUARDS.**

15 (a) ADMINISTRATION.—To the extent any public pro-
 16 vider regulates competing providers of telecommunications
 17 services or advanced telecommunications capability or
 18 services, the public provider shall apply its ordinances,
 19 rules, and policies, including those relating to the use of
 20 public rights-of-way, permitting, performance bonding,
 21 and reporting, without discrimination in favor of—

22 (1) the public provider; or

23 (2) any other provider of telecommunications
 24 service or advanced telecommunications capability or

1 services that the public provider owns or with which
 2 the public provider is affiliated.

3 (b) APPLICATION OF GENERAL LAWS.—Nothing in
 4 this Act exempts a public provider that offers tele-
 5 communications service or advanced telecommunications
 6 capability or services to the public from any Federal com-
 7 munications law or regulation that applies to all providers
 8 of telecommunications services or advanced telecommuni-
 9 cations capability or services to the public.

10 **SEC. 5. PUBLIC-PRIVATE PARTNERSHIPS ENCOURAGED.**

11 Each public provider that intends to provide tele-
 12 communications service or advanced telecommunications
 13 capability or services to the public is encouraged to con-
 14 sider the potential benefits of a public-private partnership
 15 before providing the capability or services.

16 **SEC. 6. PUBLIC INPUT AND PRIVATE SECTOR OPPOR-**
 17 **TUNITY TO BID.**

18 (a) NOTICE AND OPPORTUNITY TO BE HEARD.—Be-
 19 fore a public provider may provide telecommunications
 20 service or advanced telecommunications capability or serv-
 21 ices to the public, either directly or through a public-pri-
 22 vate partnership, the public provider shall—

23 (1) publish notice of its intention to do so;

1 (2) generally describe the capability or services
2 to be provided and the proposed coverage area for
3 the capability or services;

4 (3) identify any special capabilities or services
5 to be provided in low-income areas or other demo-
6 graphically or geographically defined areas;

7 (4) provide local citizens and private-sector en-
8 tities with an opportunity to be heard on the costs
9 and benefits of the project and potential alternatives
10 to the project, including any bids under paragraph
11 (5); and

12 (5) provide private-sector entities with an op-
13 portunity to bid to provide the capability or services
14 during the 30-day period beginning on the date on
15 which the notice required under paragraph (1) is
16 published.

17 (b) APPLICATION TO EXISTING PROJECTS AND
18 PENDING PROPOSALS.—Subsection (a) shall not apply
19 to—

20 (1) any contract or other arrangement under
21 which a public provider is providing telecommuni-
22 cations service or advanced telecommunications ca-
23 pability or services to the public as of the date of en-
24 actment of this Act; or

1 (2) any public provider proposal to provide tele-
2 communications service or advanced telecommuni-
3 cations capability or services to the public that, as
4 of the date of enactment of this Act—

5 (A) is in the request-for-proposals process;

6 (B) is in the process of being built; or

7 (C) has been approved by referendum.

8 **SEC. 7. EXEMPTIONS.**

9 The requirements under sections 4 and 6 shall not
10 apply—

11 (1) when a public provider provides tele-
12 communications service or advanced telecommuni-
13 cations capability or services other than to the public
14 or to such classes of users as to make the capability
15 or services effectively available to the public; or

16 (2) during an emergency declared by the Presi-
17 dent, the Governor of the State in which the public
18 provider is located, or any other elected local official
19 authorized by law to declare a state of emergency in
20 the jurisdiction in which the public provider is lo-
21 cated.

22 **SEC. 8. USE OF FEDERAL FUNDS.**

23 If any project providing telecommunications service
24 or advanced telecommunications capability or services
25 under this Act fails due to bankruptcy or is terminated

1 by a public provider, no Federal funds may be provided
2 to the public provider specifically to assist the public pro-
3 vider in reviving or renewing that project, unless the fail-
4 ure due to bankruptcy occurred in a jurisdiction that is
5 subject to a declaration by the President of a major dis-
6 aster, as defined in section 102 of the Robert T. Stafford
7 Disaster Relief and Emergency Assistance Act (42 U.S.C.
8 5122).

