

116TH CONGRESS
2D SESSION

S. 3649

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

MAY 7, 2020

Mr. BOOKER (for himself, Mr. MARKEY, Mr. KING, Mr. WYDEN, Mr. BLUMENTHAL, Mr. SANDERS, and Mrs. GILLIBRAND) 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 2020”.

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

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 “Indian tribe” in section 4 of the In-
11 dian Self-Determination and Education Assistance
12 Act (25 U.S.C. 5304);

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;

1 (5) the term “State” means each of the several
 2 States, the District of Columbia, the Commonwealth
 3 of Puerto Rico, and any other territory or possession
 4 of the United States; and

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

8 **SEC. 3. LOCAL GOVERNMENT PROVISION OF TELE-**
 9 **COMMUNICATIONS SERVICES AND AD-**
 10 **VANCED TELECOMMUNICATIONS CAPABILITY**
 11 **AND SERVICES.**

12 No statute, regulation, or other legal requirement of
 13 a State, a political subdivision thereof, or an Indian Tribe
 14 may prohibit, or have the effect of prohibiting or substan-
 15 tially inhibiting, any public provider from providing tele-
 16 communications services or advanced telecommunications
 17 capability or services to any person or any public or pri-
 18 vate entity.

19 **SEC. 4. SAFEGUARDS.**

20 (a) ADMINISTRATION.—

21 (1) IN GENERAL.—To the extent any public
 22 provider regulates competing providers of tele-
 23 communications services or advanced telecommuni-
 24 cations capability or services, the public provider
 25 shall apply its ordinances, rules, and policies, includ-

1 ing those relating to the use of public rights-of-way,
2 permitting, performance bonding, and reporting,
3 without discrimination in favor of—

4 (A) the public provider; or

5 (B) any other provider of telecommuni-
6 cations services or advanced telecommunications
7 capability or services that the public provider
8 owns or with which the public provider is affili-
9 ated.

10 (2) EXEMPTIONS.—Paragraph (1) shall not
11 apply—

12 (A) when a public provider provides tele-
13 communications services or advanced tele-
14 communications capability or services other
15 than—

16 (i) to the public; or

17 (ii) to such classes of users as to
18 make the capability or services effectively
19 available to the public; or

20 (B) during an emergency declared by the
21 President, the Governor of the State in which
22 the public provider is located, or any other
23 elected local official authorized by law to de-
24 clare a state of emergency in the jurisdiction in
25 which the public provider is located.

1 (b) APPLICATION OF GENERAL LAWS.—Nothing in
2 this Act shall be construed to exempt a public provider
3 that offers telecommunications services or advanced tele-
4 communications capability or services to the public from
5 any Federal communications law or regulation that applies
6 to all providers of telecommunications services or ad-
7 vanced telecommunications capability or services to the
8 public.

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

10 It is the sense of Congress that a public provider that
11 intends to provide telecommunications services or ad-
12 vanced telecommunications capability or services to the
13 public should consider the potential benefits of a public-
14 private partnership before providing the capability or serv-
15 ices.

16 **SEC. 6. USE OF FEDERAL FUNDS.**

17 If any project providing telecommunications services
18 or advanced telecommunications capability or services
19 under this Act fails due to bankruptcy or is terminated
20 by a public provider, no Federal funds may be provided
21 to the public provider specifically to assist the public pro-
22 vider in reviving or renewing that project, unless the fail-
23 ure due to bankruptcy occurred in a jurisdiction that is
24 subject to a declaration by the President of a major dis-
25 aster, as defined in section 102 of the Robert T. Stafford

1 Disaster Relief and Emergency Assistance Act (42 U.S.C.
2 5122).

