

118TH CONGRESS
1ST SESSION

S. 1197

To amend the Telecommunications Act of 1996 to preserve and protect the ability of State and local governments, public-private partnerships, and cooperatives to provide broadband services.

IN THE SENATE OF THE UNITED STATES

APRIL 19, 2023

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

A BILL

To amend the Telecommunications Act of 1996 to preserve and protect the ability of State and local governments, public-private partnerships, and cooperatives to provide broadband services.

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 2023”.

1 **SEC. 2. STATE, LOCAL, PUBLIC-PRIVATE PARTNERSHIP,**
 2 **AND CO-OP BROADBAND SERVICES.**

3 Section 706 of the Telecommunications Act of 1996
 4 (47 U.S.C. 1302) is amended—

5 (1) by redesignating subsection (d) as sub-
 6 section (e);

7 (2) by inserting after subsection (c) the fol-
 8 lowing:

9 “(d) STATE, LOCAL, PUBLIC-PRIVATE PARTNER-
 10 SHIP, AND CO-OP ADVANCED TELECOMMUNICATIONS CA-
 11 PABILITY AND SERVICES.—

12 “(1) IN GENERAL.—No statute, regulation, or
 13 other legal requirement of a State may prohibit or
 14 have the effect of prohibiting any public provider,
 15 public-private partnership provider, or cooperatively
 16 organized provider from providing, to any person or
 17 public or private entity, advanced telecommuni-
 18 cations capability or any service that utilizes the ad-
 19 vanced telecommunications capability provided by
 20 that provider.

21 “(2) ANTIDISCRIMINATION SAFEGUARDS.—

22 “(A) PUBLIC PROVIDERS.—To the extent
 23 any public provider regulates competing private
 24 providers of advanced telecommunications capa-
 25 bility or services that utilize advanced tele-
 26 communications capability, the public provider

1 shall apply its ordinances and rules without dis-
2 crimination in favor of—

3 “(i) the public provider; or

4 “(ii) any entity owned by the public
5 provider that provides services that utilize
6 advanced telecommunications capability.

7 “(B) PUBLIC-PRIVATE PARTNERSHIP PRO-
8 VIDERS.—To the extent any State or local enti-
9 ty that is part of a public-private partnership
10 provider regulates competing private providers
11 of advanced telecommunications capability or
12 services that utilize advanced telecommuni-
13 cations capability, the State or local entity shall
14 apply its ordinances and rules without discrimi-
15 nation in favor of—

16 “(i) the public-private partnership
17 provider; or

18 “(ii) any entity owned by the State or
19 local entity or public-private partnership
20 provider that provides services that utilize
21 advanced telecommunications capability.

22 “(3) SAVINGS CLAUSE.—Nothing in this sub-
23 section shall exempt a public provider, public-private
24 partnership provider, or cooperatively organized pro-
25 vider from any Federal or State telecommunications

1 law or regulation that applies to all providers of ad-
 2 vanced telecommunications capability or services
 3 that utilize such advanced telecommunications capa-
 4 bility.”; and

5 (3) in subsection (e), as redesignated—

6 (A) in the matter preceding paragraph (1),
 7 by striking “this subsection” and inserting
 8 “this section”;

9 (B) by redesignating paragraph (2) as
 10 paragraph (3);

11 (C) by inserting after paragraph (1) the
 12 following:

13 “(2) COOPERATIVELY ORGANIZED PROVIDER.—

14 The term ‘cooperatively organized provider’ means
 15 an entity that is treated as a cooperative under Fed-
 16 eral tax law and that provides advanced telecommu-
 17 nications capability, or any service that utilizes such
 18 advanced telecommunications capability, to any per-
 19 son or public or private entity.”; and

20 (D) by adding at the end the following:

21 “(4) PUBLIC PROVIDER.—The term ‘public pro-
 22 vider’ means a State or local entity that provides ad-
 23 vanced telecommunications capability, or any service
 24 that utilizes such advanced telecommunications ca-
 25 pability, to any person or public or private entity.

1 “(5) PUBLIC-PRIVATE PARTNERSHIP PRO-
 2 VIDER.—The term ‘public-private partnership pro-
 3 vider’ means a public-private partnership, between a
 4 State or local entity and a private entity, that pro-
 5 vides advanced telecommunications capability, or any
 6 service that utilizes such advanced telecommuni-
 7 cations capability, to any person or public or private
 8 entity.

9 “(6) STATE OR LOCAL ENTITY.—The term
 10 ‘State or local entity’ means—

11 “(A) a State or political subdivision there-
 12 of;

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

16 “(C) an Indian Tribe (as defined in section
 17 4(e) of the Indian Self-Determination and Edu-
 18 cation Assistance Act (25 U.S.C. 5304(e))).”.

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