

110TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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

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IN THE SENATE OF THE UNITED STATES

Mr. LAUTENBERG (for himself, Mr. SMITH, Mr. KERRY, Mr. MCCAIN, Mrs. MCCASKILL, and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**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 2007”.

1 **SEC. 2. LOCAL GOVERNMENT PROVISION OF ADVANCED**  
2 **TELECOMMUNICATIONS CAPABILITY AND**  
3 **SERVICES.**

4 No State or local government statute, regulation, or  
5 other State or local government legal requirement may  
6 prohibit, or have the effect of prohibiting, any public pro-  
7 vider from providing advanced telecommunications capa-  
8 bility, or services using advanced telecommunications ca-  
9 pability, to any person or any public or private entity.

10 **SEC. 3. SAFEGUARDS.**

11 (a) ADMINISTRATION.—To the extent any public pro-  
12 vider regulates competing providers of advanced tele-  
13 communications capability or services, such public pro-  
14 vider shall apply its ordinances and rules and policies, in-  
15 cluding those relating to the use of public rights-of-way,  
16 permitting, performance bonding, and reporting, without  
17 discrimination in favor of itself or any other provider of  
18 advanced telecommunications capability or service that  
19 such provider owns or with which such provider is affili-  
20 ated.

21 (b) APPLICATION OF GENERAL LAWS.—Nothing in  
22 this Act exempts a public provider that offers advanced  
23 telecommunications capability or services to the public  
24 from any Federal communications law or regulation that  
25 applies to all providers of advanced telecommunications  
26 capability or services to the public.

1 **SEC. 4. PUBLIC-PRIVATE PARTNERSHIPS ENCOURAGED.**

2 Each public provider that intends to provide ad-  
3 vanced telecommunications capability or services to the  
4 public is encouraged to consider the potential benefits of  
5 a public-private partnership prior to providing such capa-  
6 bility or services.

7 **SEC. 5. PUBLIC INPUT.**

8 (a) NOTICE AND OPPORTUNITY TO BE HEARD.—Be-  
9 fore a public provider may provide advanced telecommuni-  
10 cations capability or services to the public, either directly  
11 or through a public-private partnership, such public pro-  
12 vider shall—

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

14 (2) generally describe the capability or services  
15 to be provided and the proposed coverage area for  
16 such capability or services;

17 (3) identify any special capabilities or services  
18 to be provided in low-income areas or other demo-  
19 graphically or geographically defined areas; and

20 (4) provide local citizens and private-sector en-  
21 tities with an opportunity to be heard on the costs  
22 and benefits of the project and potential alternatives  
23 to the project.

24 (b) APPLICATION TO EXISTING PROJECTS AND  
25 PENDING PROPOSALS.—Subsection (a) shall not apply  
26 to—

1           (1) any contract or other arrangement under  
2           which a public provider is providing advanced tele-  
3           communications capability or services to the public  
4           as of the date of enactment of this Act; and

5           (2) any public provider proposal to provide ad-  
6           vanced telecommunications capability or services to  
7           the public that, as of the date of enactment of this  
8           Act—

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

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

11                   (C) has been approved by referendum.

12 **SEC. 6. EXEMPTIONS.**

13           The requirements of sections 3 and 5 shall not  
14           apply—

15           (1) when a public provider provides advanced  
16           telecommunications capabilities or services other  
17           than to the public or to such classes of users as to  
18           be effectively available to the public; or

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

1 **SEC. 7. DEFINITIONS.**

2 In this Act:

3 (1) **ADVANCED TELECOMMUNICATIONS CAPA-**  
4 **BILITY.**—The term “advanced telecommunications  
5 capability” has the meaning given that term by sec-  
6 tion 706(e)(1) of the Telecommunications Act of  
7 1996 (47 U.S.C. 157 note).

8 (2) **PUBLIC PROVIDER.**—The term “public pro-  
9 vider” means a State or political subdivision thereof,  
10 any agency, authority, or instrumentality of a State  
11 or political subdivision thereof, or an Indian tribe  
12 (as defined in section 4(e) of the Indian Self-Deter-  
13 mination and Education Assistance Act (25 U.S.C.  
14 450b(e)), or any entity that is owned, controlled, or  
15 otherwise affiliated with a State, political subdivision  
16 thereof, agency, authority, or instrumentality, or In-  
17 dian tribe.