

[STAFF WORKING DRAFT]

JUNE 20, 2005

109TH CONGRESS
1ST SESSION

S. _____

To amend the Telecommunications Act of 1996 to preserve and protect the ability of local governments to provide broadband capability and services.

IN THE SENATE OF THE UNITED STATES

JUNE —, 2005

Mr. LAUTENBERG (for himself and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Telecommunications Act of 1996 to preserve and protect the ability of local governments to provide broadband capability and 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 2005”.

1 **SEC. 2. COMMUNITY BROADBAND CAPABILITY AND SERV-**
2 **ICES.**

3 Section 706 of the Telecommunications Act of 1996
4 (47 U.S.C. 157 note) is amended—

5 (1) by redesignating subsection (c) as sub-
6 section (d) and inserting after subsection (b) the fol-
7 lowing:

8 “(c) LOCAL GOVERNMENT PROVISION OF ADVANCED
9 TELECOMMUNICATIONS CAPABILITY AND SERVICES.—

10 “(1) IN GENERAL.—No State statute, regula-
11 tion, or other State legal requirement may prohibit
12 or have the effect of prohibiting any public provider
13 from providing, to any person or any public or pri-
14 vate entity, advanced telecommunications capability
15 or any service that utilizes the advanced tele-
16 communications capability provided by such pro-
17 vider.

18 “(2) ANTIDISCRIMINATION SAFEGUARDS.—To
19 the extent any public provider regulates competing
20 private providers of advanced telecommunications
21 capability or services, it shall apply its ordinances
22 and rules without discrimination in favor of itself or
23 any advanced telecommunications services provider
24 that it owns.

25 “(3) SAVINGS CLAUSE.—Nothing in this section
26 shall exempt a public provider from any Federal or

1 State telecommunications law or regulation that ap-
2 plies to all providers of advanced telecommunications
3 capability or services using such advanced tele-
4 communications capability.”; and

5 (2) by adding at the end of subsection (d), as
6 redesignated, the following:

7 “(3) PUBLIC PROVIDER.—The term ‘public pro-
8 vider’ means a State or political subdivision thereof,
9 any agency, authority, or instrumentality of a State
10 or political subdivision thereof, or an Indian tribe
11 (as defined in section 4(e) of the Indian Self-Deter-
12 mination and Education Assistance Act (25 U.S.C.
13 450b(e)), that provides advanced telecommunications
14 capability, or any service that utilizes such advanced
15 telecommunications capability, to any person or pub-
16 lic or private entity.”.

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