

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1543

By: Pittman

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5
6 AS INTRODUCED

7 An Act relating to Corporation Commission; creating
8 the Oklahoma Net Neutrality Protection Act; defining
9 terms; prohibiting purchase of Internet services from
10 certain persons in certain circumstances;
11 establishing procedures for the purchase of Internet
12 services through certain contracts; establishing
13 grievance procedures for certain contracts; excluding
14 certain contracts from act; creating the Municipal
15 Internet Service Provider Revolving Loan Fund;
16 appropriating certain amount to fund; specifying
17 monies to be included in fund; authorizing certain
18 entity to provide loans from fund monies for certain
19 purpose; establishing procedures for loan
20 applications; establishing procedures for certain
21 appropriation; requiring issuance of certificate of
22 approval for certain expenditures; requiring
23 notification to certain persons; providing for
24 codification; and providing an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 139.201 of Title 17, unless
21 there is created a duplication in numbering, reads as follows:

22 This act shall be known and may be cited as the "Oklahoma Net
23 Neutrality Protection Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 139.202 of Title 17, unless
3 there is created a duplication in numbering, reads as follows:

4 For the purposes of this act:

5 1. "Net Neutral Source of Internet Services" means an Internet
6 service provider who adheres to the principles of net neutrality;

7 2. "Non-Net Neutral Source of Internet Services" means an
8 Internet service provider who violates any of the principles of net
9 neutrality; and

10 3. "The Principles of Net Neutrality" means the rules and
11 regulations under the open Internet report and order on remand,
12 declaratory ruling, and order by the Federal Communications
13 Commission released on March 12, 2015;

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 139.203 of Title 17, unless
16 there is created a duplication in numbering, reads as follows:

17 A. With respect to contracts described in subsections B and C
18 of this section, the state and any governmental agency or political
19 subdivision or public benefit corporation or municipality of the
20 state shall not contract for the supply of Internet services with
21 any contractor, any individual or any legal entity in which the
22 contractor holds a ten percent (10%) or greater interest who does
23 not agree to conduct any business operations as a net neutral source
24 of Internet services unless a contractor, individual or legal entity

1 that does conduct business operations as a net neutral source of
2 Internet services cannot be found at a comparable cost.

3 B. In the case of contracts let by a competitive process, if
4 the offer of lowest price does not agree to the conditions set forth
5 in subsection A of this section, the contract shall be awarded to
6 the lowest price offer that does agree to the conditions set forth
7 in subsection A of this section.

8 C. In the case of contracts let by other than a competitive
9 process, the contracting entity shall not award to a proposed
10 contractor who has not agreed to the stipulations of subsection A of
11 this section, unless the entity seeking to use the Internet services
12 determines that the Internet services are necessary for the entity
13 to perform its functions and there is no other responsible
14 contractor who will supply Internet services of comparable quality
15 at a comparable price. Such determinations shall be made in writing
16 and shall be public documents.

17 D. Upon receiving information that a contractor who has agreed
18 to the stipulations of subsection A of this section is in violation
19 thereof, the contracting entity shall review such information and
20 offer the contractor an opportunity to respond. If the contracting
21 entity finds that a violation has occurred, it shall take such
22 action as may be appropriate and provided for by law or rule of
23 contract, including but not limited to imposing sanctions, seeking
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1 compliance, recovering damages or declaring the contractor in
2 default.

3 E. As used in this section, the term "contract" shall not
4 include contracts with governmental and non-profit organizations,
5 contracts awarded pursuant to emergency procurement procedures or
6 contracts, resolutions, indentures, declarations of trust or other
7 instruments authorizing or relating to the authorization, issuance,
8 award, sale or purchase of bonds, certificates of indebtedness,
9 notes or other fiscal obligations, provided that the policies of
10 this subsection shall be considered when selecting a contractor to
11 provide financial or legal advice, and when selecting managing
12 underwriters in connection with such activities.

13 F. The provisions of this section shall not apply to contracts
14 for which the state or other contracting entity receives funds
15 administered by the United States, except to the extent Congress has
16 directed to not withhold funds from states and localities that
17 choose to implement selective purchasing policies based on an
18 agreement to comply with the principles of net neutrality, or to the
19 extent that such funds are not otherwise withheld by Congress.

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 139.204 of Title 17, unless
22 there is created a duplication in numbering, reads as follows:

23 There is hereby created a fund to be known as the "Municipal
24 Internet Service Provider Revolving Loan Fund". Such fund shall

1 consist of monies made available pursuant to appropriation and any
2 other sources in order to provide support for municipalities
3 attempting to create their own Internet service provider.

4 1. The fund shall consist of monies appropriated for its
5 purpose, all monies transferred to the fund pursuant to any law, and
6 all monies required by the Oklahoma Net Neutrality Protection Act to
7 be paid into or credited to this fund, including all monies received
8 by the account or donated to it, payments of principal and interest
9 on loans made from the fund, and any interest earnings which may
10 accrue from the investment or reinvestment of monies from this
11 account.

12 2. Monies of the fund, when allocated, shall be available to
13 the Corporation Commission to make loans provided in this section.
14 Up to five percent (5%) of the monies in the account or Two Hundred
15 Fifty Thousand Dollars (\$250,000.00), whichever is less, may be used
16 to pay the expenses, including personal service and maintenance and
17 operation, in connection with the administration of such loans.

18 3. a. The Corporation Commission may make, upon application
19 duly made, up to the amounts available by
20 appropriation, loans for any and all costs associated
21 with the creation of a municipally owned broadband
22 Internet service provider.

23 b. The Commission shall promulgate rules and regulations
24 related to the creation and maintenance of this fund.

- 1 4. a. Application for loans may be made by a town, village,
2 city or county provided that the application is
3 otherwise consistent with its respective powers.
4 Applications may also be submitted jointly by multiple
5 applicants provided that the application is otherwise
6 consistent with the respective powers of each
7 applicant.
- 8 b. Every application shall be in a form provided by the
9 Corporation Commission. Every application shall
10 accurately reflect the conditions which give rise to
11 the proposed expenditure and accurately reflect the
12 ability of the applicant to make such expenditure
13 without the proceeds of a loan under this section.
- 14 c. The Corporation Commission shall give preference to
15 those applications which demonstrate the greatest
16 need, joint applications, and to those applications
17 the proceeds of which will be applied toward attaining
18 compliance with federal and state laws. It shall
19 disapprove any application which contains no adequate
20 demonstration of need or which would result in
21 inequitable or inefficient use of the monies in the
22 fund.
- 23 d. In making determinations on loan applications, the
24 Corporation Commission shall assure that loan fund

1 monies are equitably distributed among all
2 geographical areas of the state.

3 e. The Corporation Commission shall, to the maximum
4 extent feasible, and consistent with the other
5 provisions of this section, seek to ensure that loans
6 authorized by this section reflect an appropriate
7 geographic distribution, are distributed equitably and
8 encourage regional cooperation.

9 5. The sum of Two Hundred Fifty Million Dollars
10 (\$250,000,000.00) or so much thereof as may be necessary is hereby
11 appropriated from any monies in the State Treasury General Fund for
12 the initial capital of the Municipal Internet Service Provider
13 Revolving Loan Fund in carrying out the provisions of this act.
14 Such sum shall be payable on vouchers certified or approved in the
15 manner provided by law. No expenditure shall be made from this
16 appropriation until a certificate of approval of availability shall
17 be issued by the Corporation Commission and given to the Governor,
18 the President Pro Tempore of the Senate, and the Speaker of the
19 House of Representatives. Such certificate may be amended by the
20 Corporation Commission and a copy of each amendment shall be given
21 to the Governor, the President Pro Tempore of the Senate, and the
22 Speaker of the House of Representatives.

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SECTION 5. This act shall become effective November 1, 2018.

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