STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

SENATE BILL 1543

By: Pittman

AS INTRODUCED

An Act relating to Corporation Commission; creating the Oklahoma Net Neutrality Protection Act; defining terms; prohibiting purchase of Internet services from certain persons in certain circumstances; establishing procedures for the purchase of Internet services through certain contracts; establishing grievance procedures for certain contracts; excluding certain contracts from act; creating the Municipal Internet Service Provider Revolving Loan Fund; appropriating certain amount to fund; specifying monies to be included in fund; authorizing certain entity to provide loans from fund monies for certain purpose; establishing procedures for loan applications; establishing procedures for certain appropriation; requiring issuance of certificate of approval for certain expenditures; requiring notification to certain persons; providing for codification; and providing an effective date.

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

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

This act shall be known and may be cited as the "Oklahoma Net Neutrality Protection Act".
SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 139.202 of Title 17, unless there is created a duplication in numbering, reads as follows:

For the purposes of this act:

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

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

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

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

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

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

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

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

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

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

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

There is hereby created a fund to be known as the "Municipal Internet Service Provider Revolving Loan Fund". Such fund shall
consist of monies made available pursuant to appropriation and any
other sources in order to provide support for municipalities
attempting to create their own Internet service provider.

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

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

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

b. The Commission shall promulgate rules and regulations
related to the creation and maintenance of this fund.
4. a. Application for loans may be made by a town, village, city or county provided that the application is otherwise consistent with its respective powers. Applications may also be submitted jointly by multiple applicants provided that the application is otherwise consistent with the respective powers of each applicant.

b. Every application shall be in a form provided by the Corporation Commission. Every application shall accurately reflect the conditions which give rise to the proposed expenditure and accurately reflect the ability of the applicant to make such expenditure without the proceeds of a loan under this section.

c. The Corporation Commission shall give preference to those applications which demonstrate the greatest need, joint applications, and to those applications the proceeds of which will be applied toward attaining compliance with federal and state laws. It shall disapprove any application which contains no adequate demonstration of need or which would result in inequitable or inefficient use of the monies in the fund.

d. In making determinations on loan applications, the Corporation Commission shall assure that loan fund
monies are equitably distributed among all geographical areas of the state.

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

5. The sum of Two Hundred Fifty Million Dollars ($250,000,000.00) or so much thereof as may be necessary is hereby appropriated from any monies in the State Treasury General Fund for the initial capital of the Municipal Internet Service Provider Revolving Loan Fund in carrying out the provisions of this act. Such sum shall be payable on vouchers certified or approved in the manner provided by law. No expenditure shall be made from this appropriation until a certificate of approval of availability shall be issued by the Corporation Commission and given to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives. Such certificate may be amended by the Corporation Commission and a copy of each amendment shall be given to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.
SECTION 5. This act shall become effective November 1, 2018.

56-2-3030      CB      1/18/2018 8:11:10 PM