

# WATOA ANNUAL SPRING CONFERENCE

CHELAN, WA  
APRIL 29, 2015

Pending Federal Communications  
Legislation Affecting Local  
Government and Consumers

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# PENDING FEDERAL LEGISLATION

Net Neutrality

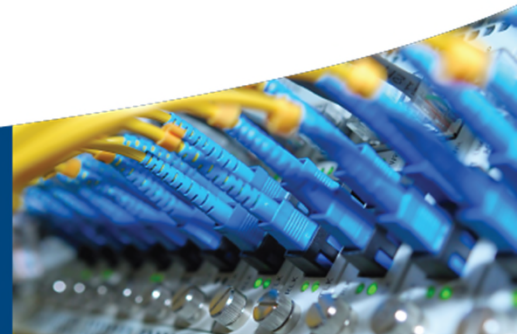
Municipal Broadband

FCC Reform

Taxation

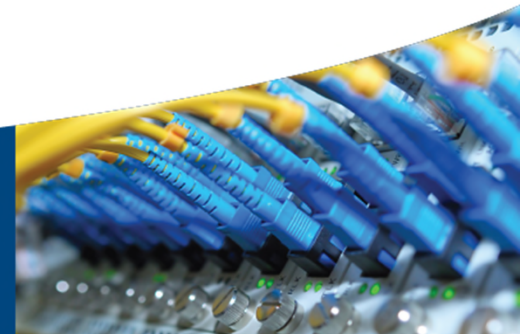
Technical Matters

Other



# NET NEUTRALITY LEGISLATION

- Legislation responsive to FCC action (February 26, 2015) in the *Open Internet* docket:
  - Net neutrality rules
  - Reclassification of Broadband Internet Access Service as a Telecommunications Service

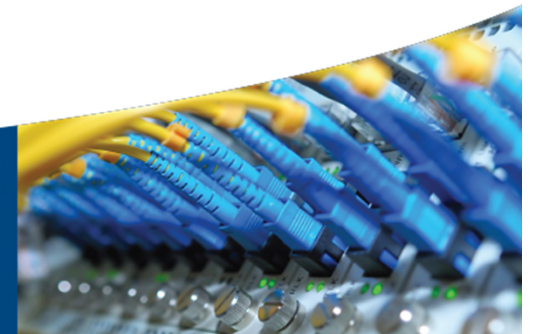


# NET NEUTRALITY BILL

(HOUSE AND SENATE DISCUSSION DRAFTS)

Sponsors: Sen. John Thune (R-SD) and Rep. Fred Upton (R-MI)

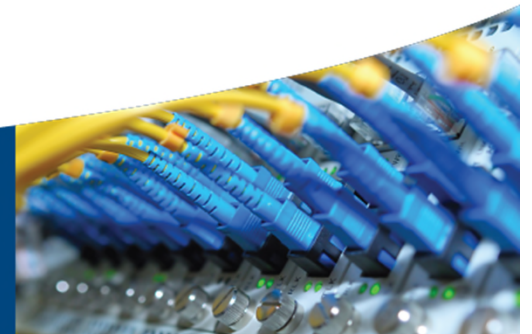
- Circulated in January 2015 but not introduced
- Prohibits blocking lawful content and non-harmful devices
- Prohibits throttling lawful traffic
- Prohibits paid prioritization
- Requires transparency of network management practices
- Allows for “Reasonable Network Management”
- Broadband considered an “information service”
- Section 706 of Telecommunications Act of 1996 not a grant of authority



## H.R. 279

### To limit FCC authority over broadband providers

- Introduced in House on Jan. 12, 2015
- Referred to the Subcommittee on Communications and Technology on Jan. 16
- 2 co-sponsors
  - Defines “broadband Internet access service” and classifies it as an “information service”
  - Providers of an information service or advanced telecommunications capability are not “common carriers” or “telecommunications carriers” and these services are not “telecommunications services”



# INTERNET FREEDOM ACT

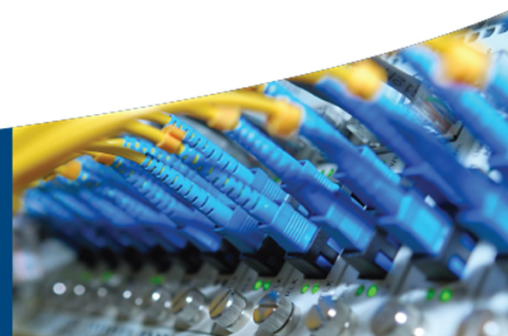
(H.R. 1212 and H.J. Res. 42)

## H.R. 1212

- Introduced in House on March 3, 2015
- Referred to House Subcommittee on Communications and Technology on March 6
- 49 Republican co-sponsors

## H.J. Res. 42

- Introduced in House on April 13, 2015
- Referred to House Committee on Energy and Commerce on April 13
- 21 Republican co-sponsors



# INTERNET FREEDOM ACT

(H.R. 1212 and H.J. Res. 42)

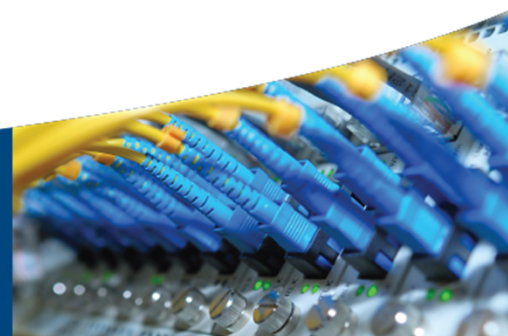
Bill nullifies FCC net neutrality order adopted Feb. 26, 2015

- Prohibits FCC from reclassifying broadband Internet access service as a “telecommunications service” (Communications Act Title II Service)
- Prohibits FCC from issuing another substantially similar rule

Exemptions – any rule FCC determines necessary:

- to prevent damage to U.S. National Security
- to ensure the Public Safety
- to assist or facilitate any actions taken by a Federal or State law enforcement agency

Resolution disapproves and nullifies FCC order



# OPEN INTERNET ACT OF 2015

(H.R. 1409)

- Introduced in House by Rep. Peters (D-CA-52) on March 17, 2015
- Referred to House Committee on Energy and Commerce on March 17
- No co-sponsors
- Authorizes FCC to adopt the net neutrality rules in its *2010 R&O* (FCC 10-201)
- Directs FCC to take all necessary actions to restore portions of the rules vacated by *Verizon v. FCC* (D.C. Cir., Jan. 14, 2014)





# FREEDOM FROM INTERNET TAX ACT

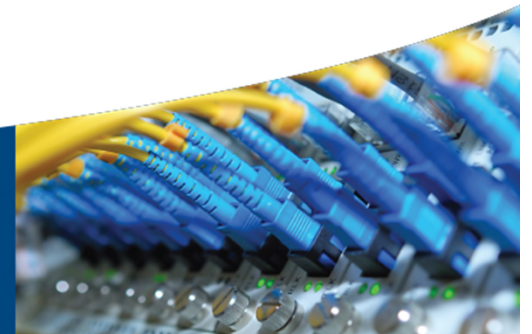
## (H.R. 1712)

- FCC net neutrality order forbears application of federal USF to broadband Internet access service due to pending rulemaking
- Bill introduced by Rep. Mooney (R-WV-2) and referred to House Committee on Energy and Commerce on March 26, 2015
- No co-sponsors
- Exempts providers of broadband Internet access service (as defined in FCC net neutrality order) from federal USF contributions



# MUNICIPAL BROADBAND LEGISLATION

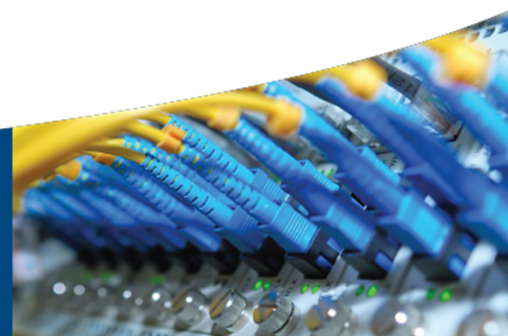
- Legislation responsive to FCC action on municipal broadband (Feb. 26, 2015):
  - preempted state laws in NC and TN that prevented community broadband providers from meeting local demand for service



# COMMUNITY BROADBAND ACT

(S. 240)

- Introduced in Senate on January 22, 2015
- Sponsored by Sen. Corey A. Booker (D-NJ)
- 4 Co-Sponsors - Sen. Markey (D-MA), McCaskill (D-MO), King (I-ME) and Wyden (D-OR)
- Read twice and referred to Senate Committee on Commerce, Science, and Transportation on January 22



# COMMUNITY BROADBAND ACT

## (S. 240)

- Preserves ability of local governments to provide advanced telecommunications services or capabilities
- Encourages consideration of public-private partnerships
- Prohibits government providers from discriminatory application of ordinances, rules, and policies, including those relating to the use of public rights-of-way, permitting, performance bonding, and reporting
- Requires public notice and input and private-sector bidding before providing public services
- Exemption from above 2 requirements for provision of services “other than to the public” or in emergencies



# STATES' RIGHTS MUNICIPAL BROADBAND ACT

(H.R. 1106 and S. 597)

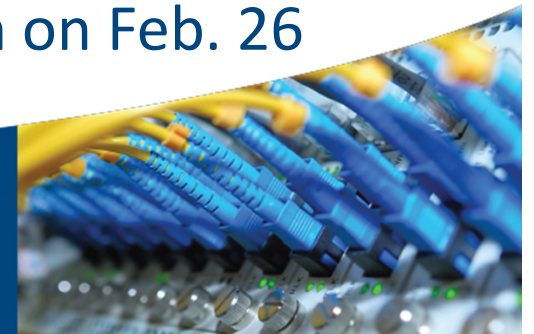
- Bills amend Sec. 706 (47 USC §1302) to declare it **does not** authorize FCC to preempt state laws regulating municipal broadband

H.R. 1106 sponsor – Rep. Marsha Blackburn (R-TN-7)

- Intro'd on Feb. 26, 2015 and referred to Subcommittee on Communications and Technology on Feb. 27
- 11 co-sponsors

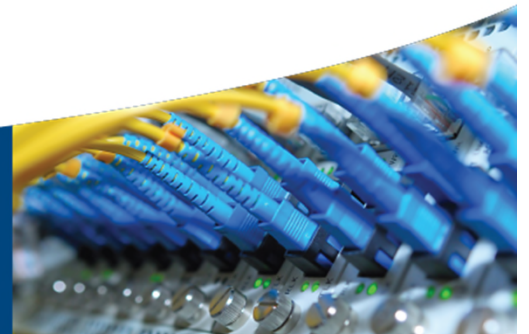
S. 597 sponsor – Sen. Thom Tillis (R-NC)

- Intro'd on Feb. 26, read twice and referred to Committee on Commerce, Science, and Transportation on Feb. 26
- No co-sponsors



# FCC REFORM

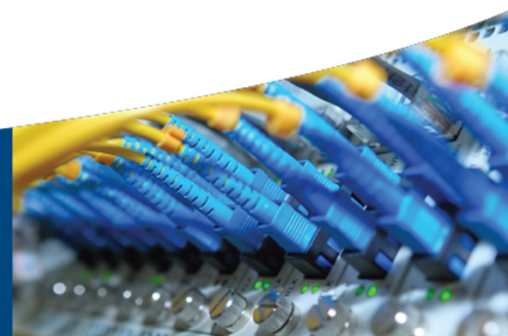
- Reporting
- Process



# FCC CONSOLIDATED REPORTING ACT

(H.R. 734 and S. 253)

- Introduced in
  - Senate Jan. 26, 2015 and Committee on Commerce, Science, and Transportation ordered to be reported with an amendment in the nature of a substitute favorably on Feb. 26
  - House on Feb. 4 and passed without amendment Feb. 24
- Consolidates FCC's various annual reporting requirements into a biennial communications marketplace report and agenda



# FCC COLLABORATION ACT

(H.R. 1396 and S. 760)

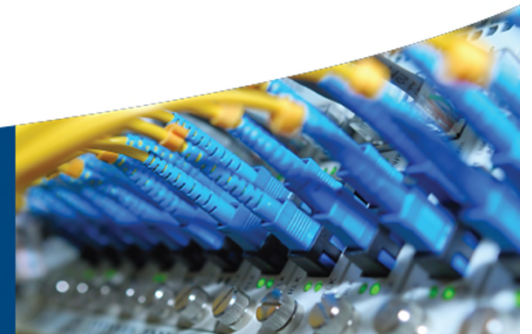
- Intro'd in House and Senate on March 17, in committee
- Authorizes bipartisan majority of FCC Commissioners to hold “closed” (nonpublic) collaborative discussions under certain conditions:
  1. no agency action is taken,
  2. each person present is an FCC Commissioner or employee or a member or person on the staff of a joint board or conference to which the FCC has referred a matter, and
  3. an attorney from the FCC's Office of General Counsel is present
- FCC must disclose list of attendees and summary of discussed matters





# TAX LEGISLATION

- Internet
- Wireless



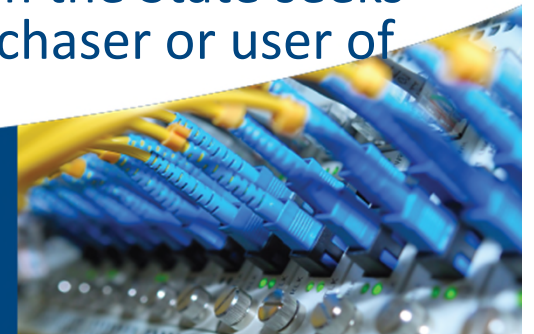
# PERMANENT INTERNET TAX FREEDOM ACT (H.R. 235)

- Related Bill – S. 431 – “Internet Tax Freedom Forever Act”
- Internet Tax Freedom Act, Public Law 105-277, signed into law by President Clinton on October 21, 1998
  - Imposed 3 year ban on state and local taxation of Internet access, and multiple or discriminatory taxes on electronic commerce
  - Latest extension set to expire on October 1, 2015
- Bills in House and Senate permanently extend ITFA
- 115 House co-sponsors, including Rep. Reichert (R-WA-8), Rep. McMorris Rodgers (R-WA-5) and Rep. Kilmer (D-WA-6)
- 47 Senate co-sponsors, including Sen. Murray (D-WA)



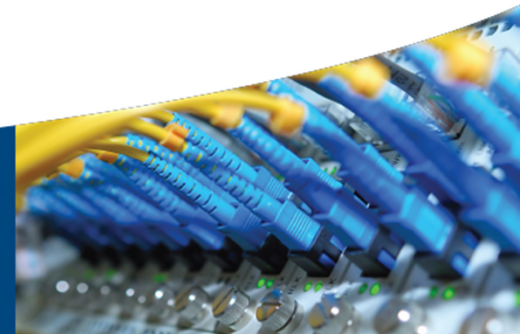
# WIRELESS TELECOMMUNICATIONS TAX AND FEE COLLECTION FAIRNESS ACT (H.R. 1087)

- This bill introduced on Feb. 25, 2015 by Rep. Sensenbrenner (R-WI-5) and co-sponsored by 5 Republicans and 1 Democrat
- Referred to the Subcommittee on Regulatory Reform, Commercial And Antitrust Law on Mar. 17
- Wireless Tax Fairness Act of 2013 – had significant support in 113<sup>th</sup> Congress but did not pass. It would have prohibited states or local governments from imposing any new discriminatory tax on mobile services, mobile service providers, or mobile service property (i.e., cell phones) for five years
- *This bill is not like previous* – this one has to do with who can be made responsible for collecting state and local wireless taxes – must be “a financial transaction between the person from whom the State seeks to require such collection or remittance and the purchaser or user of such service.”



# TECHNICAL MATTERS

- Wi-Fi
- Rural Telecommunications
- DHS Interoperability



# WI-FI INNOVATION ACT

(S. 424 and H.R. 821)

- S. 424 – Intro'd by Sen. Rubio (R-FL) on Feb. 10, 2015 and co-sponsored by Sen. Cory A. Booker (D-NJ)
- H.R. 821 – Intro'd by Rep. Latta (R-OH-5) on Feb. 10 and co-sponsored by 4 Democrats and 1 Republican
- Both bills now in committee
- Bills require FCC to:
  - Provide additional unlicensed spectrum for Wi-Fi in the upper 5 GHz (5850-5925 MHz) band used for Intelligent Transportation Service technologies
  - Seek public comments on proposals for interference-mitigation techniques and potential rechannelization and conduct testing on mitigation measures and methods of sharing spectrum
  - Make recommendations to Congress regarding availability of broadband Internet access using WiFi and wireless networks in low-income areas
- Bill is supported by cable operators such as Comcast seeking to deploy more WiFi



# DHS INTEROPERABLE COMMUNICATIONS ACT

## (H.R. 615)

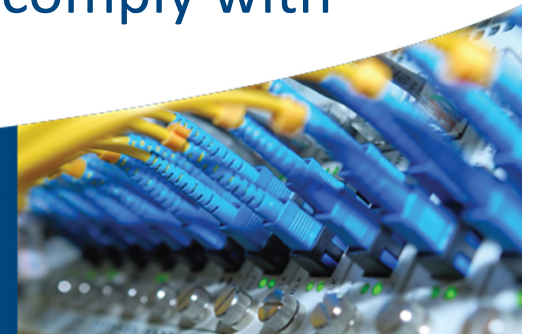
- Introduced on Jan. 28, 2015 by Rep. Payne (D-NJ-10) and passed in House by vote of 379-0 on Feb. 2
- Senate received bill, read twice, referred to Committee on Homeland Security and Governmental Affairs and ordered to be reported with an amendment in the nature of a substitute favorably on March 4
- Focuses on interoperable communications among DHS components -- ability of components of DHS “to communicate with each other as necessary, utilizing information technology systems and radio communications systems to exchange voice, data, and video in real time, as necessary, for acts of terrorism, daily operations, planned events, and emergencies.”
- Requires Under Secretary to submit strategy for interoperable communications and biannual reports on efforts to implement strategy



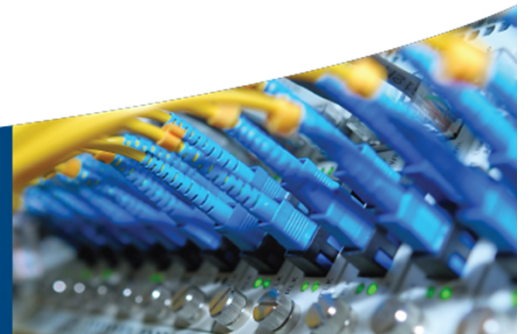
# IMPROVING RURAL CALL QUALITY AND RELIABILITY ACT

(S. 827)

- Introduced on March 19, 2015 by Sen. Amy Klobuchar (D-MN) and co-sponsored by Sen. Jon Tester (D-MT) and Sen. Jeff Merkley (D-OR)
- Read twice and referred to the Committee on Commerce, Science, and Transportation on March 19
- Ensures integrity of voice communications
- Prevents unjust or unreasonable discrimination in delivery of communications
- Intermediate providers who transmit covered voice communications must register with FCC and comply with service quality standards



# OTHER LEGISLATION?





# COMMUNITY ACCESS PRESERVATION ACT

- First introduced in 2009, reintroduced in 2011 and 2013,
- Has not yet been reintroduced in 114<sup>th</sup> Congress
- Last version:
  - Changes federal law to allow PEG funds to be used for capital or operating expenses
  - Preempts state laws limiting PEG funding. PEG channels would receive the GREATER of:
    - The historical level of support prior to state franchising laws; OR
    - The amount required under current state franchising laws; OR
    - Up to 2% of the gross revenues of the operator
  - Ensures PEG channels are transmitted without charging local governments
  - Requires the FCC to study effects of state franchising laws



# COMMUNICATIONS ACT REWRITE?

- House Energy & Commerce Committee has issued a series of white papers for public comment related to update of the *Communications Act*
  - Modernizing the Communications Act
  - Modernizing U.S. Spectrum Policy
  - Competition Policy and the Role of the FCC
  - Network Interconnection
  - Universal Service Policy and the Role of the FCC
  - Regulation of the Market for Video Content and Distribution
- No timeline for legislation



# SUMMARY

- Reaction to FCC action on broadband and competition over networks is driving most federal telecom bills
- Tax bills introduced but there appears no urgency despite fact that ITFA expires on Oct. 1, 2015
- Discrete technical bills
- No news on *Communications Act* rewrite or CAP Act
- Less than 60 legislative days left to end of fiscal year



# Questions?



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