

HOUSE No. 4178

The Commonwealth of Massachusetts

PRESENTED BY:

David Allen Robertson and Andres X. Vargas

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to assuring a jumpstart in investments in telecoms to preserve access to the internet.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>2/19/2021</i>
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>2/19/2021</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>2/26/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>3/11/2021</i>

HOUSE No. 4178

By Messrs. Robertson of Tewksbury and Vargas of Haverhill, a petition (accompanied by bill, House, No. 4178) of David Allen Robertson, Andres X. Vargas and others for legislation to establish a municipal broadband development fund. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to assuring a jumpstart in investments in telecoms to preserve access to the internet.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 10 of the General Laws, as appearing in the 2018 Official Edition,
2 is hereby amended by inserting after section 35PPP, as added by chapter 227 of the acts of 2020,
3 the following section:-

4 Section 35QQQ. (a) There shall be established upon the books of the commonwealth a
5 separate fund to be known as the Municipal Broadband Development Fund, which shall be
6 subject to further appropriation. The fund shall be expended for the purposes set forth in section
7 10 of chapter 25C.

8 (b) The state treasurer may receive and expend monies received from: (1) state
9 appropriations; (2) gifts, grants and donations from public or private sources; (3) appropriate
10 federal reimbursements, grants-in-aid or other monies credited or transferred from any other fund
11 or source pursuant to law; and (4) any interest earned from the Municipal Broadband

12 Development Fund. Such funds shall be impressed with a trust and held for the purposes of said
13 section 10 in the Municipal Broadband Development Fund. The treasurer may receive, deposit
14 and invest funds held for the purposes of said section 10 in a manner that will ensure the highest
15 interest rate available consistent with the safety of the Municipal Broadband Development Fund.

16 SECTION 2. Chapter 25C of the General Laws, as so appearing, is hereby amended by
17 adding the following 2 sections:-

18 Section 9. (a) The following words as used in this section and in section 10 shall, unless
19 the context otherwise requires, have the following meanings:

20 “Broadband internet service provider” or “BISP”, a mass-market retail service by wire or
21 fiberoptic cable that provides the capability to transmit data to and receive data from all or
22 substantially all internet endpoints, including any capabilities that are incidental to and enable the
23 operation of the communications service, but excluding dial-up internet access service or
24 cellular, satellite or radio provided internet service; or set forth by the Federal Communications
25 Commission or the department as a future equivalent of the provided service.

26 “Data Cap”, throttling, limiting, severance or purposeful interference of a data connection
27 or transfer rate based on cumulative overall usage, the download or upload of data cumulative
28 totals, or like measures over a defined time frame by an end-user subscriber of a BISP.

29 “End-User”, any subscriber of a broadband internet service provider.

30 “Municipal agency”, any department or office of a city or town government and any
31 council, division, board, bureau, commission, institution, tribunal or other instrumentality thereof
32 or thereunder.

33 “Net Neutral”, a BISP who does not partake in paid prioritization or data caps while
34 maintaining open access for all end-users.

35 “Open Access”, freedom of an end-user to access any legally hosted and legal-to-view
36 web-content, unless prohibited by law without additional cost or effort or reduction in internet
37 access speed from a BISP.

38 “Paid prioritization”, the management of a broadband provider's network to directly or
39 indirectly expedite or slow access by end-users of a BISP to any legally hosted and legal-to-view
40 web-content, unless prohibited by law.

41 “Surcharge”, an additional fee, increased rate, or like instrument of financial burden on
42 an end-user of a broadband internet service provider not charged on a recurring basis as part of
43 providing service.

44 (b) The department shall create a net neutrality seal and certification review process as
45 provided for in this subsection.

46 A BISP shall be deemed in compliance of a net neutral policy when a BISP does not
47 participate in the practice of paid prioritization, ensures open access and is free of data caps or
48 similar pricing surcharges based on internet usage by all end-users.

49 (c) A state agency, municipality, body politic or constitutional branch of the
50 commonwealth shall not renew any contracts for telephone, broadband or other internet services
51 between the commonwealth and a BISP not compliant with net neutrality certification as
52 provided for in subsection (b).

53 (d) The state treasurer, in conjunction with the department, shall levy and collect a surtax
54 of not less than 50 per cent on any surcharge by a BISP to be deposited in the Municipal
55 Broadband Development Fund established by section 35QQQ of chapter 10.

56 Section 10. (a) The department shall, in cooperation with the state treasurer or their
57 appointee, develop a competitive bidding procedure for the awarding of money to a municipal
58 agency for the purpose of expanding, founding, advertising or maintenance of a publicly-
59 administered BISP provided the BISP adheres to net neutrality standards.

60 (b) Any recipient of monies from the Municipal Broadband Development Fund,
61 established by section 35QQQ of chapter 10, found to be in violation of the provisions of net
62 neutrality as provided for in section 9 shall repay any sum awarded plus 5 per cent of the
63 awarded total to the Municipal Broadband Trust Fund.