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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To amend the Communications Act of 1934 to provide that the exception for certain persons from the definition of the term “utility” for purposes of the requirements relating to pole attachments does not apply to such a person who receives certain Federal broadband assistance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M____. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Communications Act of 1934 to provide that the exception for certain persons from the definition of the term “utility” for purposes of the requirements relating to pole attachments does not apply to such a person who receives certain Federal broadband assistance, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fair Access to Internet
3 Ready Poles Act of 2023” or the “FAIR Poles Act of
4 2023”.

5 **SEC. 2. UTILITIES SUBJECT TO REGULATION OF POLE AT-**
6 **TACHMENTS.**

7 (a) IN GENERAL.—Section 224(a) of the Commu-
8 nications Act of 1934 (47 U.S.C. 224(a)) is amended—

9 (1) in the second sentence of paragraph (1), by
10 inserting before the period at the end the following:

11 “, unless such railroad or person (including any af-
12 filiate of such railroad or person) receives covered
13 broadband assistance for purposes of the deployment
14 of broadband internet access service (as defined in
15 section 8.1(b) of title 47, Code of Federal Regula-
16 tions (or any successor regulation))”; and

17 (2) by adding at the end the following:

18 “(6) The term ‘covered broadband assistance’ means
19 any of the following:

20 “(A) Any grant or subgrant received under the
21 Broadband Equity, Access, and Deployment Pro-
22 gram established under section 60102 of the Infra-
23 structure Investment and Jobs Act (47 U.S.C.
24 1702).

1 “(B) Any grant received under section 60401 of
2 the Infrastructure Investment and Jobs Act (47
3 U.S.C. 1741; relating to middle mile grants).

4 “(C) Any grant received—

5 “(i) under the broadband loan and grant
6 pilot program established by section 779 of
7 Public Law 115–141 under the Rural Elec-
8 trification Act of 1936; and

9 “(ii) from funds made available for such
10 program under the heading ‘Distance Learning,
11 Telemedicine, and Broadband Program’ under
12 the heading ‘Rural Utilities Service’ under title
13 I of division J of the Infrastructure Investment
14 and Jobs Act.

15 “(D) Any grant received from a State, territory,
16 Tribal government, or unit of local government to
17 the extent such grant was—

18 “(i) funded by amounts provided to the
19 State, territory, Tribal government, or unit of
20 local government under section 602, 603, or
21 604 of the Social Security Act (42 U.S.C. 802;
22 803; 804); and

23 “(ii) provided for the stated purposes of
24 making investments in broadband infrastruc-
25 ture.

1 “(E) Any grant or subgrant received under sec-
2 tion 905 of division N of the Consolidated Appro-
3 priations Act, 2021 (47 U.S.C. 1305 note).

4 “(F) Any Rural Digital Opportunity Fund sup-
5 port received under subpart J of part 54 of title 47,
6 Code of Federal Regulations.

7 “(G) Any support received under the regula-
8 tions promulgated under section 7402(a) of the
9 American Rescue Plan Act of 2021 (47 U.S.C. 254
10 note; relating to the Emergency Connectivity
11 Fund).”.

12 (b) APPLICABILITY.—The amendments made by sub-
13 section (a)—

14 (1) shall apply beginning on the date that is
15 180 days after the date of the enactment of this Act;
16 and

17 (2) shall apply with respect to covered
18 broadband assistance (as defined in section 224(a)
19 of the Communications Act of 1934, as amended by
20 subsection (a)) without regard to whether such as-
21 sistance is awarded before, on, or after the date that
22 is 180 days after the date of the enactment of this
23 Act.