

By: Senator(s) Carter

To: Energy

SENATE BILL NO. 3046
(As Sent to Governor)

1 AN ACT TO DIRECT THE STATE FISCAL OFFICER TO TRANSFER
2 \$65,000,000.00 TO THE MISSISSIPPI ELECTRIC COOPERATIVES BROADBAND
3 COVID-19 GRANT PROGRAM FUND; TO DIRECT THE STATE FISCAL OFFICER TO
4 TRANSFER \$10,000,000.00 TO THE COVID-19 BROADBAND PROVIDER GRANT
5 PROGRAM FUND; TO CREATE THE "MISSISSIPPI ELECTRIC COOPERATIVES
6 BROADBAND COVID-19 GRANT PROGRAM" AND THE "COVID-19 BROADBAND
7 PROVIDER GRANT PROGRAM"; TO PROVIDE A STATEMENT OF LEGISLATIVE
8 INTENT AND FINDINGS; TO CREATE THE "MISSISSIPPI ELECTRIC
9 COOPERATIVES BROADBAND COVID-19 GRANT PROGRAM FUND" AND THE
10 "COVID-19 BROADBAND PROVIDER GRANT PROGRAM FUND" AS SPECIAL FUNDS
11 IN THE STATE TREASURY FOR THE PURPOSE OF PROVIDING FUNDS FOR
12 GRANTS UNDER THIS ACT; TO PROVIDE THAT THE GRANT PROGRAMS CREATED
13 UNDER THIS ACT SHALL BE ADMINISTERED BY THE DEPARTMENT OF FINANCE
14 AND ADMINISTRATION, FOR THE PURPOSE OF MAKING GRANTS UNDER THIS
15 ACT FOR ELIGIBLE EXPENSES; TO PRESCRIBE THE REQUIREMENTS OF
16 APPLICATION FOR THE GRANTS; TO SPECIFY THAT THE USE OF GRANT FUNDS
17 SHALL BE SUBJECT TO AUDIT AND REGULATION OF THE PUBLIC UTILITIES
18 STAFF, AND NONCOMPLIANCE WITH THE TERMS OF THE GRANT SHALL REQUIRE
19 REPAYMENT OF GRANT MONIES TO THE STATE; TO SPECIFY THAT ALL MONIES
20 SHALL BE DISBURSED FROM THESE SPECIAL FUNDS IN COMPLIANCE WITH THE
21 REQUIREMENTS OF THE CARES ACT AND GUIDELINES FROM THE UNITED
22 STATES DEPARTMENT OF THE TREASURY REGARDING THE USE OF MONIES FROM
23 THE CORONAVIRUS RELIEF FUND; TO TRANSFER UNOBLIGATED MONIES IN THE
24 FUNDS AS OF OCTOBER 1, 2020, TO THE UNEMPLOYMENT INSURANCE FUND;
25 TO PROVIDE THAT A DECLARATION OF ANY PORTION OF THIS ACT AS
26 INVALID SHALL NOT AFFECT THE REMAINING PORTIONS OF THIS ACT; AND
27 FOR RELATED PURPOSES.

28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

29 **SECTION 1.** (1) Upon the effective date of this act, the
30 State Fiscal Officer shall transfer to the Mississippi Electric



31 Cooperatives Broadband COVID-19 Grant Program Fund out of the
32 Budget Contingency Fund.....\$ 65,000,000.00.

33 (2) Upon the effective date of this act, the State Fiscal
34 Officer shall transfer to the Covid-19 Broadband Provider Grant
35 Program Fund out of the Budget Contingency Fund.....
36 \$ 10,000,000.00.

37 **SECTION 2.** This act shall be known and may be cited as the
38 "Mississippi Electric Cooperatives Broadband COVID-19 Act."

39 **SECTION 3.** (1) The Legislature finds and declares that the
40 State of Emergency and ongoing public health crisis related to
41 COVID-19 has caused significant challenges in the immediate
42 delivery of educational, health care and other services. The
43 Legislature further finds and declares that due to the COVID-19
44 pandemic there is an immediate increased need for reliable
45 internet service in rural Mississippi, including expanded rural
46 broadband capacity to facilitate and assist with distance
47 learning, telemedicine, and telework and which is required for
48 citizens to continue their education, receive necessary services,
49 and work in a healthy and safe environment.

50 (2) Therefore, as part of this state's response to the
51 COVID-19 public health emergency, the Legislature determines that
52 it is necessary to create and there is hereby created in the State
53 Treasury a special fund to be designated as the "Mississippi
54 Electric Cooperatives Broadband COVID-19 Grant Program Fund,"
55 which shall consist of funds made available by the Legislature in



56 any manner and funds from any other source designated for deposit
57 into such fund. The Department of Finance and Administration, in
58 conjunction with the Mississippi Public Utilities Staff, shall
59 establish the "Mississippi Electric Cooperatives Broadband
60 COVID-19 Grant Program" ("Cooperative Program") to provide grants
61 to electric cooperatives for the purpose of expanding immediately
62 broadband access in unserved and underserved areas of the State of
63 Mississippi, as determined by the Mississippi Public Utilities
64 Staff which the Legislature hereby finds and determines are
65 necessary expenditures due to the public health emergency with
66 respect to COVID-19.

67 (3) The Legislature further determines, as part of this
68 state's response to the COVID-19 public health emergency, that it
69 is necessary to create and there is hereby created in the State
70 Treasury a special fund to be designated as the "Covid-19
71 Broadband Provider Grant Program Fund," which shall consist of
72 funds made available by the Legislature in any manner and funds
73 from any other source designated for deposit into such fund; and
74 the Department of Finance and Administration, in conjunction with
75 the Mississippi Public Utilities Staff, shall establish the
76 "Covid-19 Broadband Grant Program" ("General Program") to provide
77 grants to broadband providers, as defined in subsection (4) of
78 this section, for the purpose of expanding broadband access in
79 unserved and underserved areas of the State of Mississippi, as
80 determined by the Mississippi Public Utilities Staff, which the



81 Legislature hereby finds and determines are necessary expenditures
82 due to the public health emergency with respect to COVID-19.

83 (4) As used in this act, the following words and phrases
84 shall have the meanings ascribed in this section unless the
85 context clearly indicates otherwise:

86 (a) "Applicant" means an electric cooperative or
87 broadband provider that makes an application for a grant under
88 this act.

89 (b) "Broadband affiliate" means any entity that is (i)
90 wholly or partially owned by an electric cooperative, and (ii)
91 formed to own or operate a broadband system or provide broadband
92 services;

93 (c) "Broadband provider" means an entity that (i) is
94 not an electric cooperative or an affiliate of an electric
95 cooperative and (ii) is authorized to provide broadband service in
96 Mississippi;

97 (d) "Broadband services" means any service that
98 consists of or includes the provision of or connectivity to a
99 high-speed, high-capacity transmission medium that can carry
100 signals from or to multiple sources at a rate not less than one
101 hundred (100) megabits per second in the downstream direction and
102 not less than one hundred (100) megabits per second in the
103 upstream direction, and that either: (i) is used to provide
104 access to the internet, or (ii) provides computer processing,
105 information storage, information content or protocol conversion,



106 including any service applications or information service provided
107 over such high-speed access service.

108 (e) "Census block" means a geographic area defined as a
109 census block by the United States Department of Commerce, Bureau
110 of the Census, in conducting the 2010 decennial census.

111 (f) "COVID-19" means the Coronavirus Disease 2019;

112 (g) "Department" means the Department of Finance and
113 Administration; and

114 (h) "Electric cooperative" means a corporation formed
115 or operating under Section 77-5-201 et seq.

116 (i) "Grant Funds" means the "Mississippi Electric
117 Cooperatives Broadband Covid-19 Grant Program Fund" and the
118 "Covid-19 Broadband Provider Grant Program Fund."

119 (j) "Grant Programs" means the "Mississippi Electric
120 Cooperatives Broadband Covid-19 Grant Program" and the "Covid-19
121 Broadband Provider Grant Program."

122 (k) "Primary application" means the initial application
123 filed by an applicant under this act for the purpose of obtaining
124 a grant from one of the Grant Funds.

125 (l) "Public Utilities Staff" or "staff" means the
126 Mississippi Public Utilities Staff.

127 (m) "Public Utilities Staff Regulation Fund" means the
128 fund established under Section 77-2-19.

129 (n) "Secondary application" means an application filed
130 by an applicant under this act after its primary application has



131 been filed and that is submitted for the purpose of obtaining an
132 additional grant from one of the Grant Funds. Approved grants for
133 secondary applications will be distributed from each Grant Fund on
134 a pro rata basis, as determined by the department.

135 (5) Unexpended amounts remaining in either of the Grant
136 Funds at the end of a fiscal year shall not lapse into the State
137 General Fund, and any investment earnings or interest earned on
138 amounts in the Grant Funds shall be deposited to the credit of the
139 Grant Funds, respectively. Monies in the Grant Funds shall be
140 used for the purpose of providing payments to eligible applicants
141 as provided in this act. Monies in the Grant Funds shall be
142 administered and disbursed by the department and Staff in
143 compliance with this act and in compliance with the guidelines,
144 guidance, rules, regulations and/or other criteria, as may be
145 amended from time to time, of the United States Department of the
146 Treasury regarding the use of monies from the Coronavirus Relief
147 Fund established in Section 5001 of the Coronavirus Aid, Relief,
148 and Economic Security (CARES) Act. If on October 1, 2020, there
149 are unobligated monies in one or both of the Grant Funds, or if at
150 any other time undistributed monies in either Grant Funds are
151 determined by the department to be ineligible to be spent by the
152 department, those monies shall be transferred into the
153 Unemployment Compensation Fund.

154 **SECTION 4.** (1) From the date of the beginning of the period
155 for applications for grants under this section, the Staff shall



156 consider and review applications from any eligible applicant. Any
157 project applied for by an electric cooperative must be for the
158 purpose of the electric cooperative immediately installing
159 broadband fiber on its electric delivery system and thereby
160 facilitating the provision of broadband services by its broadband
161 affiliate or an unaffiliated broadband provider. Any project
162 applied for by a broadband provider must be for the purpose of the
163 broadband provider's delivery of broadband services. All projects
164 under each of the Grant Programs must be designed to immediately
165 provide increased broadband services to an area or areas that have
166 been determined by the Public Utilities Staff to be unserved or
167 underserved according to the latest publicly available Federal
168 Communications Commission broadband data. Under this act,
169 electric cooperatives may only apply for and receive grants under
170 the Cooperative Program, and broadband providers may only apply
171 for and receive grants under the General Program.

172 (2) As to each of those specific Mississippi counties for
173 which such information is requested by an electric cooperative or
174 broadband provider, the Public Utilities Staff shall, by no later
175 than July 10, 2020, specifically identify census blocks that are
176 unserved or underserved according to the latest publicly available
177 Federal Communications Commission broadband data. In order to
178 create efficiencies in the administration of the Grant Programs
179 and avoid the imposition of undue and unnecessary burdens on the
180 Staff, a single electric cooperative or broadband provider may not



181 request such information for more than three (3) counties and any
182 requests for such information must be submitted to the Staff by no
183 later than the close of business on July 7, 2020. The Staff shall
184 provide its identification of such census blocks directly to the
185 department and to each electric cooperative and broadband provider
186 requesting the Staff for such information, and also provide such
187 information to the public through a posting on the Public
188 Utilities Staff's website. Each applicant shall rely on the
189 Public Utilities Staff's identification of unserved and
190 underserved census blocks in making its application(s) for Grant
191 Funds and spending awarded Grant Funds.

192 (3) In an attempt to facilitate broader participation in the
193 Cooperative Program, an electric cooperative's project or
194 projects, for which grant monies are provided under this act,
195 shall be considered pilot or special purpose projects and shall
196 not obligate the electric cooperative receiving the grant monies
197 or such electric cooperative's broadband affiliate to provide
198 broadband access to the entire service area of the electric
199 cooperative.

200 (4) For each dollar of grant monies requested for a project
201 or projects by an applicant, the applicant must commit and spend a
202 dollar of nongrant monies toward such project or projects.
203 Universal Service Fund, Connect America Fund, or other grants
204 awarded for broadband expansion through a separate state or
205 federal program shall not be used for the required matching funds;



206 but this limitation shall not include or extend to any loans of
207 any kind. The primary application made by an applicant shall be
208 for a grant totaling not more than Six Million Dollars
209 (\$6,000,000.00).

210 (5) An applicant submitting a primary application may also
211 submit a secondary application at the same time or soon thereafter
212 with no maximum to the amount of grant monies that may be
213 requested. The department shall first obligate all primary
214 applications made that meet the eligibility criteria and are
215 approved by the Staff. Then, if grant monies are still available
216 the department shall consider and obligate any secondary
217 applications that meet the eligibility criteria and are approved
218 by the Staff. During the secondary application process, if one of
219 the Grant Funds has unobligated monies remaining after all
220 qualifying secondary applications are considered, then the State
221 Fiscal Officer shall transfer those unobligated monies into the
222 other Grant Fund for distribution in the secondary application
223 process of such other Grant Fund.

224 (6) Any grant monies provided under this act shall be spent
225 no later than December 30, 2020, or by such later date as may be
226 specified in the guidelines, guidance, rules, regulations and/or
227 other criteria of the United States Department of the Treasury
228 regarding the use of monies from the Coronavirus Relief Fund
229 established in Section 5001 of the Coronavirus Aid, Relief, and
230 Economic Security (CARES) Act.



231 SECTION 5. (1) An applicant desiring to participate in one
232 of the Grant Programs shall make written application to the Staff
233 for a grant.

234 (2) Any primary application must be submitted on or before
235 the close of business on July 17, 2020. A primary application
236 must include the following: (a) a description of the applicant,
237 (b) a description of the proposed project, (c) a project map
238 depicting the projects unserved or underserved census blocks, as
239 identified by the Public Utilities Staff, (d) an engineering map
240 of the project, (e) an estimate of the total number of households
241 along the route of the project, (f) the total estimated miles of
242 fiber to be installed, (g) the proposed maximum speeds to be
243 delivered both downstream and upstream, (h) the total estimated
244 cost of the project, (i) the grant amount requested by the
245 electric cooperative, subject, however, to the limit set forth in
246 Section 3 of this act, and (j) confirmation by the applicant of
247 its obligation under this act to refund any awarded funds in the
248 event it is found by the Public Utilities Staff to be fully or
249 materially noncompliant with this act.

250 (3) In order to assist with the payment of reasonable
251 expenses the Public Utilities Staff will incur in the
252 administration of the Grant Programs, any application for a grant
253 under this act, whether primary or secondary, must include an
254 application fee that is: (a) made payable to the Public Utilities
255 Staff Regulation Fund, and (b) equal to one-half of one percent



256 (1/2 of 1%) of the grant amount requested in the application. An
257 application fee paid by an applicant shall be immediately returned
258 if the proposed project is rejected by the Staff. In the event a
259 requested grant is partially awarded, the application fee shall be
260 reduced on a proportionate basis and the difference refunded to
261 the applicant.

262 (4) The Staff shall expeditiously review the primary
263 application submitted by an applicant and determine if the
264 application and proposed project meet the criteria set forth in
265 this act. On July 28, 2020, by close of business, the Staff shall
266 notify the applicant and the department which primary applications
267 have been approved. The department shall then distribute the
268 approved grants to the approved applicant(s) by close of business
269 July 31, 2020.

270 (5) In the event two (2) or more applicants submit projects
271 that include one (1) or more common census blocks, the Staff shall
272 determine which proposed project best serves that census block or
273 blocks using the following criteria:

274 (a) Maximum speeds, including both downstream and
275 upstream,

276 (b) Total miles of fiber to be deployed based on the
277 entire application, and

278 (c) Total value of the project, including both grant
279 and match, with preference given to projects of greater value.



280 The applicant whose project is rejected based on the Staff's
281 determination may, within three (3) days after the Staff's
282 determination, revise its proposed project and refile an amended
283 application with the Staff. The refiled project shall continue as
284 the same designation (primary or secondary) as the rejected
285 project.

286 (6) If after approval by the Staff of all primary
287 applications, the department determines that the requested grants
288 are greater than the monies in a given Grant Fund, the Staff shall
289 determine a ranking of the primary applications for whichever
290 Grant Fund is overdrawn. Such ranking shall be determined by the
291 following criteria:

292 (a) Maximum speeds, including both downstream and
293 upstream,

294 (b) Total miles of fiber to be deployed, and

295 (c) Total value of the project, including both grant
296 and match, with preference given to projects of greater value.

297 After the Staff has determined primary application rankings,
298 it shall transmit said rankings to the department for
299 disbursement. The department shall disburse Grant Funds in order
300 of the primary application rankings until all the Grant Funds are
301 disbursed.

302 (7) Any secondary application by an applicant shall be
303 submitted on or before July 29, 2020, and meet the same
304 application content criteria as a primary application. The



305 department shall notify the Staff if there are any Grant Funds
306 remaining after the department's distributions of Grant Funds for
307 primary applications. In the event there are monies remaining in
308 a given Grant Fund, the Staff shall review the secondary
309 applications for approval. Upon its approval of secondary
310 applications, the Staff shall notify the department of such
311 application approvals by no later than the close of business on
312 August 11, 2020, and the department shall distribute monies on a
313 pro rata basis, as determined by the department, to all qualifying
314 secondary applicants on or before August 14, 2020.

315 **SECTION 6.** (1) Each applicant receiving any Grant Funds
316 under this act shall monthly file project status reports with the
317 Public Utilities Staff. The initial project status report shall
318 be due on or before September 15, 2020, and updates shall be
319 provided on or before the fifteenth day of each month thereafter
320 until such time as the project is completed. Such reports shall
321 include the following information concerning the project: (a) a
322 summary of the work performed, (b) an itemization of the
323 expenditures on the project, (c) the number of miles of broadband
324 fiber installed, (d) the number of residential properties along
325 the route of the installed fiber, (e) the number of residential
326 properties taking broadband service using the installed fiber, and
327 (f) the estimated project completion percentage.

328 (2) Upon its completion of a project funded under this act,
329 the applicant shall promptly file a notice of project completion



330 with the Public Utilities Staff. The notice shall contain the
331 same information as is required to be provided in a monthly status
332 report.

333 (3) The Public Utilities Staff may, in its discretion,
334 conduct field audits, onsite audits, or engineering reviews
335 regarding the matters set forth in the report or notice. The
336 Staff may also require the applicant to provide such additional or
337 other information or documentation that the Staff determines is
338 reasonably necessary to ensure compliance with this act and the
339 United States Department of the Treasury regarding the use of
340 monies from the Coronavirus Relief Fund established in Section
341 5001 of the Coronavirus Aid, Relief, and Economic Security (CARES)
342 Act.

343 (4) Except for the total amount of an applicant's
344 expenditures, any and all financial information contained within
345 an applicant's application, monthly status reports or notice of
346 project completion, including, but not limited to, the cost of
347 fiber or equipment and any other itemized expenditures, is and
348 shall be treated as confidential and proprietary information.
349 Such confidential and proprietary information may be submitted by
350 the applicant to the Staff and/or the department under seal; and
351 such information, if submitted under seal, shall be exempt from
352 the provisions of the Mississippi Public Records Act of 1983 and
353 withheld from public disclosure.



354 (5) If the Public Utilities Staff, after reviewing monthly
355 status reports or a notice of project completion, determines that
356 an applicant's project is not in compliance with this act, the
357 Staff shall so notify the applicant in writing and provide the
358 applicant with a reasonable opportunity to bring its project into
359 compliance. If the Staff thereafter determines that the applicant
360 has failed to bring its project into compliance, the Staff shall
361 provide written notice of same to the applicant and the
362 department.

363 (6) If the Staff, after reviewing a notice of project
364 completion, finds that a funded project is in compliance with this
365 act, then the Staff shall provide a written notice of compliance
366 to the applicant and to the department.

367 (7) An applicant found by the Public Utilities Staff to be
368 fully or materially noncompliant with this act shall return to the
369 state all or a portion of the grant monies received, as determined
370 by the department. Applicants shall confirm their understanding
371 of these terms in their primary and/or secondary applications.

372 (8) The Mississippi Public Utilities Staff shall ensure
373 grant monies are spent in compliance with this act and in
374 compliance with the guidelines, guidance, rules, regulations
375 and/or other criteria, as may be amended from time to time, of the
376 United States Department of the Treasury regarding the use of
377 monies from the Coronavirus Relief Fund established in Section
378 5001 of the Coronavirus Aid, Relief, and Economic Security (CARES)



379 Act. Upon request of the Governor, Lieutenant Governor, the
380 Speaker of the House, the Chairman of the Senate Energy Committee
381 or the Chairman of the House Public Utilities Committee, the Staff
382 shall provide a report of the status of the Grant Programs,
383 provided that said report does not disclose any confidential or
384 proprietary information.

385 **SECTION 7.** If any section, paragraph, sentence, clause,
386 phrase or any part of this act is declared to be in conflict with
387 federal law, or if for any reason is declared to be invalid or of
388 no effect, the remaining sections, paragraphs, sentences, clauses,
389 phrases or parts thereof shall be in no manner affected thereby
390 but shall remain in full force and effect.

391 **SECTION 8.** This act shall take effect and be in force from
392 and after its passage.

