HOUSE BILL NO.  505

AN ACT TO CREATE THE MISSISSIPPI BROADBAND ACCESSIBILITY ACT;
TO PROVIDE LEGISLATIVE FINDINGS; TO PROVIDE DEFINITIONS FOR THE
ACT; TO REQUIRE THE DIRECTOR OF MISSISSIPPI PUBLIC UTILITIES STAFF
TO ESTABLISH AND ADMINISTER THE BROADBAND ACCESSIBILITY GRANT
PROGRAM FOR THE PURPOSE OF PROMOTING THE DEPLOYMENT AND ADOPTION
OF BROADBAND INTERNET ACCESS SERVICES TO UNSERVED AREAS; TO
PROVIDE THAT THE PROGRAM SHALL BE ADMINISTERED PURSUANT TO
POLICIES DEVELOPED BY THE PUBLIC UTILITIES STAFF, SUBJECT TO THE
REQUIREMENTS OF THE ACT, WHICH SHALL PROVIDE FOR THE AWARDING OF
GRANTS TO NON-GOVERNMENTAL ENTITIES THAT ARE COOPERATIVES,
CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS, OR OTHER
PRIVATE BUSINESS ENTITIES THAT PROVIDE BROADBAND SERVICES; AND FOR
RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the
Mississippi Broadband Accessibility Act.

SECTION 2. The Legislature finds that the availability of
high-speed broadband services, with the preference of speeds of
twenty-five (25) megabits per second of download speed and three
(3) megabits per second of upload speed or greater, in unserved
rural Mississippi is important for economic development,
education, health care, and emergency services in Mississippi, and
that grants and other incentives set forth in this act will
further those objectives by encouraging new investment in broadband infrastructure.

**SECTION 3.** For the purposes of this article, the following words shall have the following meanings unless the context clearly indicates otherwise:

(a) "End user" means a residential, business, institutional, or government entity that uses broadband services for its own purposes and does not resell such broadband services to other entities. An internet service provider (ISP) and mobile wireless service provider are not an end user for the purposes of this act.

(b) "Middle mile project" means a broadband infrastructure project that does not provide broadband service to end users or to end-user devices.

(c) "Minimum service threshold" means a connection to the Internet that provides capacity for transmission at an average speed per customer of at least twenty-five (25) megabits (Mbps) per second downstream and at least three (3) megabits (Mbps) per second upstream.

(d) "Rural area" means any area within this state not included within the boundaries of any incorporated city or town having a population in excess of twenty-five thousand (25,000) inhabitants, according to the latest federal decennial census.

(e) "Unserved area" means any rural area in which there is not at least one provider of terrestrial broadband service that
is either: (i) offering a connection to the Internet meeting the minimum service threshold; or (ii) is required, under the terms of the Federal Universal Service Fund or other federal or state grant, to provide a connection to the Internet at speeds meeting the minimum service threshold by March 28, 2023.

SECTION 4. (1) The Director of Mississippi Public Utilities Staff shall establish and administer the broadband accessibility grant program for the purpose of promoting the deployment and adoption of broadband Internet access services to unserved areas. By August 1, 2021, the director shall adopt rules and policies to administer the program and begin to accept applications for grants, and shall adopt such rules as may be necessary to meet the future needs of the grant program.

(2) The program shall be administered pursuant to policies developed by the Public Utilities Staff in compliance with this act. The policies shall provide for the awarding of grants to non-governmental entities that are cooperatives, corporations, limited liability companies, partnerships, or other private business entities that provide broadband services. Nothing in this article shall expand the authority under state law of any entity to provide broadband service.

(3) There is hereby created the Mississippi Broadband Accessibility Fund as a special fund in the State Treasury. The fund is subject to appropriations by the Legislature and gifts, grants, and other donations received by the Public Utilities Staff
for the broadband accessibility grant program or fund. The Public
Utilities Staff may not spend appropriations for the program for
purposes other than those listed in this section. Any monies
appropriated to the Public Utilities Staff for broadband grants
that are unspent at the end of a fiscal year shall be carried over
for use by the program in the next fiscal year. The Public
Utilities Staff shall develop rules ensuring that expenses
incurred to administer the program must not exceed the lesser of
seven percent (7%) of the total amount appropriated for the
program in any fiscal year or Seven Hundred Fifty Thousand Dollars
($750,000.00). Monies in the fund shall be invested by the State
Treasurer for the sole benefit of the fund.

(4) (a) Individual grants awarded by the Public Utilities
Staff under this section may only be awarded for projects in
unserved areas, and may not exceed the lesser of:

(i) Thirty-five percent (35%) of the project
costs; or

(ii) One Million Five Hundred Thousand Dollars
($1,500,000.00) for projects that will be capable of transmitting
broadband signals at or above the minimum service threshold.

(b) The Public Utilities Staff shall ensure that not
less than forty percent (40%) of funds appropriated for grants be
utilized in unincorporated areas of the state.

(c) Subject to the limitations in this subsection (4),
grants shall be awarded pursuant to the service criteria developed
by the Public Utilities Staff, with priority given to projects that meet any of the following:

(i) Seek to leverage grant funds through private investment and extension of existing infrastructure;

(ii) Serve locations with demonstrated community support, including, but not limited to, documented support from local government;

(iii) Demonstrate the operator's technical and managerial capabilities to complete the project within two (2) years of the grant;

(iv) Demonstrate the applicants' necessary financial resources;

(v) Are most cost effective and technically efficient in that they propose to serve the highest number of unserved homes, businesses and community anchor points for the least cost and best level of service, emphasizing projects including the highest broadband speeds;

(vi) Provide material broadband enhancement to hospitals located in rural areas; and

(vii) Support local libraries in this state for the purpose of assisting the libraries in offering digital literacy training pursuant to state library and archive guidelines.

(d) For the purposes of awarding grants, the Public Utilities Staff shall take into consideration the average pole
attachment rates that a grant applicant charges to an unaffiliated entity, provided that this paragraph (d) shall not apply to a public utility.

(e) In order to promote the deployment of grant funds in an inclusive manner that is consistent with the racial, gender, geographic, urban, rural, and economic diversity of the state, the Public Utilities Staff may give additional consideration to an applicant that provides documentation that it has been certified as a Disadvantaged Business Enterprise. For projects funded under this act, the Public Utilities Staff shall encourage grant applicants to use vendors and subcontractors that have been certified as Disadvantaged Business Enterprises.

(5) For each fiscal year in which grant funds are available, the Public Utilities Staff shall accept applications within a 90-day grant window that it shall establish. Applications for eligible projects will be evaluated according to a scoring system developed by the Public Utilities Staff that incorporates the priorities listed in this section, with grant awards published within ninety (90) days after expiration of the filing window. Grant applications shall be published by the Public Utilities Staff on the Internet at the end of the filing window, and existing service providers shall have thirty (30) business days from the date of publication to file objections to the eligibility of a proposed project. The Public Utilities Staff shall address any objections within thirty (30) days of submission and shall
make any appropriate changes to grant awards based on a finding of
ineligibility resulting from such protest. Subject to such
protest procedure, grants issued by the Public Utilities Staff
shall be conditioned upon compliance with the terms of the grant
but shall not otherwise be revocable. Providers' grants shall be
paid within thirty (30) days upon the Public Utilities Staff
receiving written certification of the completion of the project
and evidence of compliance with the terms of the grant as
prescribed by the Public Utilities Staff.

(6) Grants shall be conditioned on project completion within
two (2) years of awarding of the grant. If a recipient fails to
complete a project within the two-year deadline due to reasons
other than delay caused by a government entity, the Public
Utilities Staff may revoke the grant in its entirety and
rededicate the funds to a new recipient.

(7) The Public Utilities Staff shall condition the release
of any grant funds awarded under this act on both of the
following:

(a) The progressive completion, as measured on not more
than a quarterly basis, of the approved project.

(b) Operational testing, when possible, to confirm the
level of service proposed in the grant application. Such
regulations shall not exceed in degree or differ in kind from
testing and reporting requirements imposed on the grant recipient
by the Federal Communications Commission, as adjusted for the
service specifications in the Public Utilities Staff grant agreement.

(8) Notwithstanding any other provision of this section, eligible projects shall include any of the following:

(a) Projects to serve unserved areas in which the grant applicant is either or both: (i) an existing or future service provider which has or will receive support through federal universal service funding programs designed specifically to encourage broadband deployment in an area without broadband access; or (ii) an existing or future service provider which has or will receive other forms of federal or state financial support or assistance, such as a grant or loan from the United States Department of Agriculture; provided, however, that any award of state funds under this section, when combined with other forms of state or federal support or assistance dedicated to the project, other than interest-bearing loans, may not exceed sixty percent (60%) of the total project costs. Nothing in this section shall prohibit a grant applicant who has not previously received any federal or state funds, grants or loans for broadband deployment from applying for and receiving grant funds under this section.

(b) Middle mile projects, where the applicant demonstrates that the project will connect other service providers eligible for grants under this section with broadband infrastructure further upstream in order to enable the providers to offer broadband service to end users; provided that eligible
projects under this paragraph (b) may include projects in an
unserved area or a rural area that does not meet the definition of
an unserved area but otherwise meets the requirements of this
section, for which the grant applicant demonstrates, by specific
evidence, the need for greater broadband speeds, capacity, or
service which is not being offered by an existing service
provider.

(c) Projects to provide broadband service to a specific
hospital, public school, public safety, or economic development
site in a rural area that does not meet the definition of an
unserved area but otherwise meets the requirements of this
section, for which the grant applicant demonstrates, by specific
evidence, the need for greater broadband speeds, capacity, or
service which is not being offered by an existing service
provider.

(d) Grants issued under paragraphs (b) and (c) of this
subsection (8) shall not exceed forty percent (40%) of the total
funds appropriated for grants on an annual basis.

SECTION 5. This act shall take effect and be in force from
and after July 1, 2021.