

**Adopted
AMENDMENT NO 1 TO AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2798

BY: Representative Bounds

1 **AMEND** after line 485 by inserting the following new sections
2 and renumbering the succeeding section:

3 " **SECTION 5.** Section 5 through 8 of this act shall be known
4 and may be cited as the Mississippi Broadband Accessibility Act.

5 **SECTION 6.** The Legislature finds that the availability of
6 high-speed broadband services, with the preference of speeds of
7 twenty-five (25) megabits per second of download speed and three
8 (3) megabits per second of upload speed or greater, in unserved
9 rural Mississippi is important for economic development,
10 education, health care, and emergency services in Mississippi, and
11 that grants and other incentives set forth in Sections 5 through 8
12 of this act will further those objectives by encouraging new
13 investment in broadband infrastructure.



14 **SECTION 7.** For the purposes of Sections 5 through 8 of this
15 act, the following words shall have the following meanings unless
16 the context clearly indicates otherwise:

17 (a) "End user" means a residential, business,
18 institutional, or government entity that uses broadband services
19 for its own purposes and does not resell such broadband services
20 to other entities. An Internet service provider (ISP) and mobile
21 wireless service provider are not an end-user for the purposes of
22 Sections 5 through 8 of this act.

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

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

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

35 (e) "Unserved area" means any rural area in which there
36 is not at least one provider of terrestrial broadband service that
37 is either: (i) offering a connection to the Internet meeting the
38 minimum service threshold; or (ii) is required, under the terms of



39 the Federal Universal Service Fund or other federal or state
40 grant, to provide a connection to the Internet at speeds meeting
41 the minimum service threshold by March 28, 2023.

42 **SECTION 8.** (1) The Director of Mississippi Public Utilities
43 Staff shall establish and administer the broadband accessibility
44 grant program for the purpose of promoting the deployment and
45 adoption of broadband Internet access services to unserved areas.
46 By August 1, 2021, the director shall adopt rules and policies to
47 administer the program and begin to accept applications for
48 grants, and shall adopt such rules as may be necessary to meet the
49 future needs of the grant program.

50 (2) The program shall be administered pursuant to policies
51 developed by the Public Utilities Staff in compliance with
52 Sections 5 through 8 of this act. The policies shall provide for
53 the awarding of grants to nongovernmental entities that are
54 cooperatives, corporations, limited liability companies,
55 partnerships, or other private business entities that provide
56 broadband services. Nothing in Sections 5 through 8 of this act
57 shall expand the authority under state law of any entity to
58 provide broadband service.

59 (3) There is hereby created the Mississippi Broadband
60 Accessibility Fund as a special fund in the State Treasury. The
61 fund is subject to appropriations by the Legislature and gifts,
62 grants, and other donations received by the Public Utilities Staff
63 for the broadband accessibility grant program or fund. The Public



64 Utilities Staff may not spend appropriations for the program for
65 purposes other than those listed in this section. Any monies
66 appropriated to the Public Utilities Staff for broadband grants
67 that are unspent at the end of a fiscal year shall be carried over
68 for use by the program in the next fiscal year. The Public
69 Utilities Staff shall develop rules ensuring that expenses
70 incurred to administer the program must not exceed the lesser of
71 seven percent (7%) of the total amount appropriated for the
72 program in any fiscal year or Seven Hundred Fifty Thousand Dollars
73 (\$750,000.00). Monies in the fund shall be invested by the State
74 Treasurer for the sole benefit of the fund.

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

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

80 (ii) One Million Five Hundred Thousand Dollars
81 (\$1,500,000.00) for projects that will be capable of transmitting
82 broadband signals at or above the minimum service threshold.

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

86 (c) Subject to the limitations in this subsection (4),
87 grants shall be awarded pursuant to the service criteria developed



88 by the Public Utilities Staff, with priority given to projects
89 that meet any of the following:

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

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

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

98 (iv) Demonstrate the applicants' necessary
99 financial resources;

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

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

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

111 (d) For the purposes of awarding grants, the Public
112 Utilities Staff shall take into consideration the average pole



113 attachment rates that a grant applicant charges to an unaffiliated
114 entity, provided that this paragraph (d) shall not apply to a
115 public utility.

116 (e) In order to promote the deployment of grant funds
117 in an inclusive manner that is consistent with the racial, gender,
118 geographic, urban, rural, and economic diversity of the state, the
119 Public Utilities Staff may give additional consideration to an
120 applicant that provides documentation that it has been certified
121 as a Disadvantaged Business Enterprise. For projects funded under
122 Sections 5 through 8 of this act, the Public Utilities Staff shall
123 encourage grant applicants to use vendors and subcontractors that
124 have been certified as Disadvantaged Business Enterprises.

125 (5) For each fiscal year in which grant funds are available,
126 the Public Utilities Staff shall accept applications within a
127 90-day grant window that it shall establish. Applications for
128 eligible projects will be evaluated according to a scoring system
129 developed by the Public Utilities Staff that incorporates the
130 priorities listed in this section, with grant awards published
131 within ninety (90) days after expiration of the filing window.
132 Grant applications shall be published by the Public Utilities
133 Staff on the Internet at the end of the filing window, and
134 existing service providers shall have thirty (30) business days
135 from the date of publication to file objections to the eligibility
136 of a proposed project. The Public Utilities Staff shall address
137 any objections within thirty (30) days of submission and shall



138 make any appropriate changes to grant awards based on a finding of
139 ineligibility resulting from such protest. Subject to such
140 protest procedure, grants issued by the Public Utilities Staff
141 shall be conditioned upon compliance with the terms of the grant
142 but shall not otherwise be revocable. Providers' grants shall be
143 paid within thirty (30) days upon the Public Utilities Staff
144 receiving written certification of the completion of the project
145 and evidence of compliance with the terms of the grant as
146 prescribed by the Public Utilities Staff.

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

153 (7) The Public Utilities Staff shall condition the release
154 of any grant funds awarded under Sections 5 through 8 of this act
155 on both of the following:

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

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



163 service specifications in the Public Utilities Staff grant
164 agreement.

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

167 (a) Projects to serve unserved areas in which the grant
168 applicant is either or both: (i) an existing or future service
169 provider which has or will receive support through federal
170 universal service funding programs designed specifically to
171 encourage broadband deployment in an area without broadband
172 access; or (ii) an existing or future service provider which has
173 or will receive other forms of federal or state financial support
174 or assistance, such as a grant or loan from the United States
175 Department of Agriculture; provided, however, that any award of
176 state funds under this section, when combined with other forms of
177 state or federal support or assistance dedicated to the project,
178 other than interest-bearing loans, may not exceed sixty percent
179 (60%) of the total project costs. Nothing in this section shall
180 prohibit a grant applicant who has not previously received any
181 federal or state funds, grants or loans for broadband deployment
182 from applying for and receiving grant funds under this section.

183 (b) Middle mile projects, where the applicant
184 demonstrates that the project will connect other service providers
185 eligible for grants under this section with broadband
186 infrastructure further upstream in order to enable the providers
187 to offer broadband service to end-users; provided that eligible



188 projects under this paragraph (b) may include projects in an
189 unserved area or a rural area that does not meet the definition of
190 an unserved area but otherwise meets the requirements of this
191 section, for which the grant applicant demonstrates, by specific
192 evidence, the need for greater broadband speeds, capacity, or
193 service which is not being offered by an existing service
194 provider.

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

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

206 **AMEND further the title** on line 19 by inserting after the
207 semicolon the following:

208 "TO CREATE THE MISSISSIPPI BROADBAND ACCESSIBILITY ACT; TO
209 PROVIDE LEGISLATIVE FINDINGS; TO PROVIDE DEFINITIONS FOR THE ACT;
210 TO REQUIRE THE DIRECTOR OF MISSISSIPPI PUBLIC UTILITIES STAFF TO
211 ESTABLISH AND ADMINISTER THE BROADBAND ACCESSIBILITY GRANT PROGRAM
212 FOR THE PURPOSE OF PROMOTING THE DEPLOYMENT AND ADOPTION OF
213 BROADBAND INTERNET ACCESS SERVICES TO UNSERVED AREAS; TO PROVIDE
214 THAT THE PROGRAM SHALL BE ADMINISTERED PURSUANT TO POLICIES



215 DEVELOPED BY THE PUBLIC UTILITIES STAFF, SUBJECT TO THE
216 REQUIREMENTS OF THE ACT, WHICH SHALL PROVIDE FOR THE AWARDING OF
217 GRANTS TO NONGOVERNMENTAL ENTITIES THAT ARE COOPERATIVES,
218 CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS, OR OTHER
219 PRIVATE BUSINESS ENTITIES THAT PROVIDE BROADBAND SERVICES;"

