

By: Representatives Bounds, Tullos, Mickens

To: Public Utilities;
Appropriations

HOUSE BILL NO. 1029

1 AN ACT TO CREATE THE MISSISSIPPI BROADBAND ACCESSIBILITY ACT;
 2 TO PROVIDE LEGISLATIVE FINDINGS; TO PROVIDE DEFINITIONS FOR THE
 3 ACT; TO REQUIRE THE DIRECTOR OF MISSISSIPPI PUBLIC UTILITIES STAFF
 4 TO ESTABLISH AND ADMINISTER THE BROADBAND ACCESSIBILITY GRANT
 5 PROGRAM FOR THE PURPOSE OF PROMOTING THE DEPLOYMENT AND ADOPTION
 6 OF BROADBAND INTERNET ACCESS SERVICES TO UNSERVED AREAS; TO
 7 PROVIDE THAT THE PROGRAM SHALL BE ADMINISTERED PURSUANT TO
 8 POLICIES DEVELOPED BY THE PUBLIC UTILITIES STAFF, SUBJECT TO THE
 9 REQUIREMENTS OF THE ACT, WHICH SHALL PROVIDE FOR THE AWARDING OF
 10 GRANTS TO NONGOVERNMENTAL ENTITIES THAT ARE COOPERATIVES,
 11 CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS, OR OTHER
 12 PRIVATE BUSINESS ENTITIES THAT PROVIDE BROADBAND SERVICES; AND FOR
 13 RELATED PURPOSES.

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

15 **SECTION 1.** Section 1 through 4 of this act shall be known
 16 and may be cited as the Mississippi Broadband Accessibility Act.

17 **SECTION 2.** The Legislature finds that the availability of
 18 high-speed broadband services, with the preference of speeds of
 19 twenty-five (25) megabits per second of download speed and three
 20 (3) megabits per second of upload speed or greater, in unserved
 21 rural Mississippi is important for economic development,
 22 education, health care, and emergency services in Mississippi, and
 23 that grants and other incentives set forth in Sections 1 through 4



24 of this act will further those objectives by encouraging new
25 investment in broadband infrastructure.

26 **SECTION 3.** For the purposes of Sections 1 through 4 of this
27 act, the following words shall have the following meanings unless
28 the context clearly indicates otherwise:

29 (a) "End user" means a residential, business,
30 institutional, or government entity that uses broadband services
31 for its own purposes and does not resell such broadband services
32 to other entities. An Internet service provider (ISP) and mobile
33 wireless service provider are not an end-user for the purposes of
34 Sections 1 through 4 of this act.

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

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

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

47 (e) "Unserved area" means any rural area in which there
48 is not at least one provider of terrestrial broadband service that



49 is either: (i) offering a connection to the Internet meeting the
50 minimum service threshold; or (ii) is required, under the terms of
51 the Federal Universal Service Fund or other federal or state
52 grant, to provide a connection to the Internet at speeds meeting
53 the minimum service threshold by March 28, 2023.

54 **SECTION 4.** (1) The Director of the Mississippi Public
55 Utilities Staff shall establish and administer the broadband
56 accessibility grant program for the purpose of promoting the
57 deployment and adoption of broadband Internet access services to
58 unserved areas. By August 1, 2022, the director shall adopt rules
59 and policies to administer the program and begin to accept
60 applications for grants, and shall adopt such rules as may be
61 necessary to meet the future needs of the grant program.

62 (2) The program shall be administered pursuant to policies
63 developed by the Public Utilities Staff in compliance with
64 Sections 1 through 4 of this act. The policies shall provide for
65 the awarding of grants to nongovernmental entities that are
66 cooperatives, corporations, limited liability companies,
67 partnerships, or other private business entities that provide
68 broadband services. Nothing in Sections 1 through 4 of this act
69 shall expand the authority under state law of any entity to
70 provide broadband service.

71 (3) There is hereby created the Mississippi Broadband
72 Accessibility Fund as a special fund in the State Treasury. The
73 fund is subject to appropriations by the Legislature and gifts,



74 grants, and other donations received by the Public Utilities Staff
75 for the broadband accessibility grant program or fund. The Public
76 Utilities Staff may not spend appropriations for the program for
77 purposes other than those listed in this section. Any monies
78 appropriated to the Public Utilities Staff for broadband grants
79 that are unspent at the end of a fiscal year shall be carried over
80 for use by the program in the next fiscal year. The Public
81 Utilities Staff shall develop rules ensuring that expenses
82 incurred to administer the program must not exceed the lesser of
83 seven percent (7%) of the total amount appropriated for the
84 program in any fiscal year or Seven Hundred Fifty Thousand Dollars
85 (\$750,000.00). Monies in the fund shall be invested by the State
86 Treasurer for the sole benefit of the fund.

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

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

92 (ii) One Million Five Hundred Thousand Dollars
93 (\$1,500,000.00) for projects that will be capable of transmitting
94 broadband signals at or above the minimum service threshold.

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



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

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

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

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

110 (iv) Demonstrate the applicants' necessary
111 financial resources;

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

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

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



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

128 (e) In order to promote the deployment of grant funds
129 in an inclusive manner that is consistent with the racial, gender,
130 geographic, urban, rural, and economic diversity of the state, the
131 Public Utilities Staff may give additional consideration to an
132 applicant that provides documentation that it has been certified
133 as a Disadvantaged Business Enterprise. For projects funded under
134 Sections 1 through 4 of this act, the Public Utilities Staff shall
135 encourage grant applicants to use vendors and subcontractors that
136 have been certified as Disadvantaged Business Enterprises.

137 (5) For each fiscal year in which grant funds are available,
138 the Public Utilities Staff shall accept applications within a
139 90-day grant window that it shall establish. Applications for
140 eligible projects will be evaluated according to a scoring system
141 developed by the Public Utilities Staff that incorporates the
142 priorities listed in this section, with grant awards published
143 within ninety (90) days after expiration of the filing window.
144 Grant applications shall be published by the Public Utilities
145 Staff on the Internet at the end of the filing window, and
146 existing service providers shall have thirty (30) business days
147 from the date of publication to file objections to the eligibility



148 of a proposed project. The Public Utilities Staff shall address
149 any objections within thirty (30) days of submission and shall
150 make any appropriate changes to grant awards based on a finding of
151 ineligibility resulting from such protest. Subject to such
152 protest procedure, grants issued by the Public Utilities Staff
153 shall be conditioned upon compliance with the terms of the grant
154 but shall not otherwise be revocable. Providers' grants shall be
155 paid within thirty (30) days upon the Public Utilities Staff
156 receiving written certification of the completion of the project
157 and evidence of compliance with the terms of the grant as
158 prescribed by the Public Utilities Staff.

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

165 (7) The Public Utilities Staff shall condition the release
166 of any grant funds awarded under Sections 1 through 4 of this act
167 on both of the following:

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

170 (b) Operational testing, when possible, to confirm the
171 level of service proposed in the grant application. Such
172 regulations shall not exceed in degree or differ in kind from



173 testing and reporting requirements imposed on the grant recipient
174 by the Federal Communications Commission, as adjusted for the
175 service specifications in the Public Utilities Staff grant
176 agreement.

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

179 (a) Projects to serve unserved areas in which the grant
180 applicant is either or both: (i) an existing or future service
181 provider which has or will receive support through federal
182 universal service funding programs designed specifically to
183 encourage broadband deployment in an area without broadband
184 access; or (ii) an existing or future service provider which has
185 or will receive other forms of federal or state financial support
186 or assistance, such as a grant or loan from the United States
187 Department of Agriculture; provided, however, that any award of
188 state funds under this section, when combined with other forms of
189 state or federal support or assistance dedicated to the project,
190 other than interest-bearing loans, may not exceed sixty percent
191 (60%) of the total project costs. Nothing in this section shall
192 prohibit a grant applicant who has not previously received any
193 federal or state funds, grants or loans for broadband deployment
194 from applying for and receiving grant funds under this section.

195 (b) Middle mile projects, where the applicant
196 demonstrates that the project will connect other service providers
197 eligible for grants under this section with broadband



198 infrastructure further upstream in order to enable the providers
199 to offer broadband service to end-users; provided that eligible
200 projects under this paragraph (b) may include projects in an
201 unserved area or a rural area that does not meet the definition of
202 an unserved area but otherwise meets the requirements of this
203 section, for which the grant applicant demonstrates, by specific
204 evidence, the need for greater broadband speeds, capacity, or
205 service which is not being offered by an existing service
206 provider.

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

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

218 **SECTION 5.** This act shall take effect and be in force from
219 and after July 1, 2022.

