AN ACT TO CREATE THE MISSISSIPPI BROADBAND EXPANSION ACT; TO PROVIDE DEFINITIONS; TO ESTABLISH THE MISSISSIPPI OFFICE OF BROADBAND; TO PROVIDE THE DUTIES OF THE OFFICE; TO CREATE THE MISSISSIPPI BROADBAND GRANT PROGRAM; 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 Expansion Act."

SECTION 2. As used in this act, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

(a) "Administrator" means the Mississippi Office of Broadband, created in this act.

(b) "Applicant" means a private provider that has authorization to do business in this state and has demonstrated that it has the technical, financial, and managerial resources and experience to provide broadband services in the state to retail end users.

(c) "Broadband Internet access service" means a mass-market retail service by wire or radio provided to customers...
in the State of Mississippi that provides the capability to transmit data to, and receive data from, all or substantially all Internet endpoints, including, but not limited to, any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service.

(d) "Deployed" means, with respect to availability of broadband service at a location, that a broadband service provider currently has a broadband service connection at the location or could provide a broadband Internet access service connection to a customer that requests broadband service at the location not later than ten (10) business days after the customer requests broadband service and without extraordinary commitment of resources or construction charges or fees exceeding an ordinary service activation fee. Broadband Internet access service is considered to be deployed at a location regardless of whether a person or entity subscribes to the broadband service at the location.

(e) "Eligible broadband service provider" means any company, firm, corporation, partnership, or association that either has been providing broadband Internet access service to at least one hundred (100) residences and businesses in the State of Mississippi for at least three (3) consecutive years or an affiliate thereof; or is an electric power association's broadband affiliate operating pursuant to Section 77-17-1 et seq.; and has
demonstrated financial, technical, and operational capability in building and operating a broadband network.

(f) "Eligible project" means a specific project seeking to provide retail broadband Internet access services to residences, businesses, and community institutions in unserved areas, and in accordance with applicable federal requirements, when applicable.

(g) "Shapefile" means a digital storage format containing geospatial or location-based data and attribute information regarding the availability of broadband Internet access service; and that can be viewed, edited, and mapped in geographic information system software.

(h) "Unserved area" means an area lacking access to a wireline connection capable of delivering at least minimum speeds of one hundred (100) megabits per second download speed and twenty (20) megabits per second upload speed from at least one (1) provider of broadband Internet access service.

SECTION 3. This act shall establish the Mississippi Office of Broadband to be housed within the Department of Finance and Administration. An executive director of the Mississippi Office of Broadband shall be appointed by the Governor with the advice and consent of the Senate.

SECTION 4. The Mississippi Office of Broadband shall be charged with coordinating all broadband expansion efforts on behalf of the state as well as administering all federal broadband
expansion programs. The Mississippi Office of Broadband may be funded through state appropriations and use any available federal funds for the administration of broadband grants and planning. The office shall seek public comment on any additional guidelines or requirements to be adopted.

SECTION 5. The Mississippi Office of Broadband shall be the state entity responsible for coordinating all information provided by broadband Internet access service providers. All information provided by a broadband Internet access service provider pursuant to this chapter shall be presumed to be confidential, proprietary, and subject to exemption from disclosure under state and federal law and shall not be subject to disclosure except in the form of a map where information that could be used to determine provider-specific information about the network of the broadband services provider is not disclosed. Such provider-specific information shall not be released to any person without express permission of the submitting broadband Internet access services provider. In no instance shall a broadband provider be required to provide any data beyond that which it is required to provide to the Federal Communications Commission pursuant to 47 USC Section 641 et. seq. (The Broadband Deployment Accuracy and Technological Availability Act).

SECTION 6. The Mississippi Broadband Grant Program is created to implement a statewide broadband grant program. There is hereby created as a special fund in the State Treasury the...
Mississippi Broadband Opportunity Fund ("the fund"). The fund shall consist of all monies appropriated by the Mississippi Legislature for broadband deployment; all monies received from the federal government awarded to or allocated by the state for broadband deployment; and donations, gifts, and monies received from any other source, including transfers from other funds or accounts. All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. Monies in the fund shall be invested by the State Treasurer in the same manner as monies in the State General Fund and interest earned on the investment of those monies shall be credited to the fund. Monies in the fund shall be used solely for providing grants to help fund broadband access in unserved areas; the administrator may utilize up to one percent (1%) of the fund to administer the grant program.

**SECTION 7.** (1) Appropriated funds for the grant program shall only be used by the administrator toward applicants for projects that extend and enhance broadband Internet access service into unserved areas in this state and for the administrator's costs to administer the program.
(2) Grant funds shall not be directly or indirectly awarded to a governmental entity or educational institution or an affiliate, to own, purchase, construct, operate, or maintain a communications network, or to provide service to any residential or commercial premises.
(3) An award of grant funds by the administrator may not, as a condition of the award, impose any regulatory requirements not otherwise specifically authorized under this act or any other provision of Mississippi law applicable to a provider of broadband Internet access services.

(4) As a condition of an award, an applicant shall not obtain financing from any other government grants, loans, or subsidies that are offered to support deployment of broadband service in the same unserved areas.

SECTION 8. (1) An award of funds must be issued by a competitive grant process. The grant process shall be technology neutral and shall result in awards to applicants that are eligible broadband service providers proposing projects based on objective and efficient measures and procedures. The criteria for determining the award of funds shall include the following:

(a) The applicant's experience and financial wherewithal to deploy, operate and manage the proposed project and broadband service offerings, including evidence of the applicant's successful operations of broadband Internet access services to retail end users.

(b) The readiness to build, operate, and maintain the project.

(c) The scalability of the proposed project network to support the deployment of higher broadband Internet access speeds over time.
(d) The likelihood that the unserved area will not be served with broadband service without state grant funding.

(e) The applicant's ability to demonstrate a collaborated plan to leverage broadband Internet access services for community needs and economic development, such as rural development, education, tourism, new investment, or business attraction or retention.

(f) The ability of the applicant to commit to providing at least twenty percent (20%) of the cost to deploy the proposed broadband infrastructure. When multiple applications are received for a grant to provide broadband Internet access services to the same geographic area at similar speeds, the administrator may establish a greater preference for approving the applications with a greater commitment of funding by the applicant.

(g) The administrator shall not discriminate or give any preferences to applications on the basis of the type of technology proposed by any applicant to be used to provide broadband services.

SECTION 9. (1) Within sixty (60) days after the effective date of this act and after notice and opportunity to comment, the administrator shall establish and publish on its website its criteria for competitively scoring applications. Specific criteria to be considered when weighing or scoring an application are as follows:
(a) The size and scope of the unserved area to be deployed.

(b) The experience, technical ability, and financial capability of the applicant to successfully deploy broadband Internet access service infrastructure and provide high-speed broadband Internet access service.

(c) Length of time which the applicant has been providing broadband Internet access service.

(d) The extent to which federal, state, or local government funding support is necessary to deploy broadband Internet access service network infrastructure in an economically feasible manner in the proposed project area.

(e) The proportion of the private capital pledged by the applicant to finance the proposed project.

(f) The broadband Internet access service speed thresholds proposed in the application and the scalability of the broadband Internet access service network infrastructure proposed to be deployed to provide broadband Internet access service to households and businesses.

**SECTION 10.** (1) An applicant for a grant under this act shall provide the following information at a minimum on the application:

(a) The location of the project by use of a shapefile.

(b) The kind and amount of broadband infrastructure to be deployed for the project, including the amount the applicant
intends to invest in the project from private funds. The applicant shall also provide the minimum upload and download speeds or tiers of service available to the end user.

(c) Evidence regarding the unserved nature of the area in which the project is to be located.

(d) The number of households that will have access to broadband service as a result of the project, or whose broadband Internet access service will be upgraded as a result of the project.

(e) The significant community institutions that will benefit from the proposed project.

(f) A narrative on the impact that the investment will have on community and economic development efforts in the area.

(g) The total cost of the project and a detailed budget and schedule for the project, including the submission of a business plan that provides for the sole use of funds provided under this act, are to be used solely for the expenses of constructing network facilities, including ancillary costs as defined by applicable federal requirements, when applicable. Such funds shall not be used to support the operational expenses of the network or to subsidize any other service provided by the applicant.

(h) The broadband service provider's experience and financial capabilities, including that the provider must be operating existing network facilities of a similar size and scope
providing broadband services and can demonstrate that such operations are financially sound.

(2) After scoring and considering all grant applications, the administrator shall make grant award recommendations. Within thirty (30) days after the award recommendations have been made, the administrator shall publish on its website the eligible broadband service providers that have filed grant applications, the proposed geographic broadband service area illustrated by a shapefile, and the proposed broadband service speeds for each application that receives an award recommendation.

(3) Before granting an award to an applicant, the administrator shall establish a period of at least sixty (60) days from the date the award recommendations are published on the administrator's website, during which time the administrator shall accept comments or objections concerning each application. The administrator shall consider all comments or objections received, and investigate them as needed, in deciding whether an applicant is eligible for a grant. If an objection submitted by a provider contains information that requires an investigation and the objection is found to be inaccurate, the provider shall reimburse the administrator for the cost of verifying the information.

(4) The administrator shall not award a grant to an applicant if verifiable information is made available that shows any of the following:
(a) The proposed project includes an area that is already being served by at least one (1) provider offering broadband service or who has deployed broadband facilities to an area. The proposed project is subject to an applicant's previous commitment as a condition of government approval of an application for sale, merger, acquisition, general rule transaction of indirect change in control, or any other enforceable broadband service deployment commitment prior to or after the effective date of this act.

(b) The proposed project includes an area where construction of a network to provide fiber to the premises-based broadband Internet access service is underway, and the construction is scheduled to be completed within one (1) year after the date of the application.

(c) The proposed project includes an area that has already been publicly announced by an eligible broadband service provider, or an affiliate thereof, as intending to be built with meaningful steps taken to accomplish the same, as shown by feasibility already determined, funding procured and such other indicia as the administrator may determine.

(d) The proposed project is for the same geographic area and for fiber to the premises-based broadband Internet access service as that for which the applicant or an affiliate thereof has been selected to receive, provisionally or otherwise, federal funding, including, but not limited to, the Connect America Fund.
or Rural Digital Opportunity Fund from the Federal Communications Commission and the Reconnect Loan and Grant Program or Rural Utilities Service Program from the United States Department of Agriculture. If an award recommendation is rejected because of an objection pertaining to paragraph (c) of this subsection, the Internet service provider installing the broadband service in lieu of the improper recipient shall provide notice to the administrator when the construction of the broadband service is completed. If no notice is received, or if the completion date is later than the two (2) years allowed for in this section, the Internet service provider shall reimburse the administrator for the cost of verifying the status of the provider's construction.

(5) An applicant's or challenging party's trade secrets, financial information, and proprietary information submitted under this act as part of an application or challenge are exempt from disclosure under the Mississippi Public Records Act (Sections 25-61-1 through 25-61-19).

SECTION 11. At the time an award is given to an applicant, the administrator shall immediately provide notice on its website of each application receiving funds, including the name of the entity, the amount of funds being received, the broadband speed, and the unserved area indicated by a shapefile as established under this act for which the applicant is receiving the funds.

SECTION 12. The administrator shall require an applicant awarded funds to submit a semiannual report from the time the
applicant receives the funds to two (2) years after completion of the project. The semiannual reports shall be made available on the administrator's website. The reports shall be in a format specified by the administrator and shall give an accounting by the applicant of the use of the funds received and the progress toward fulfilling the objectives for which the funds were granted, including all of the following:

(1) The number and location of residences and businesses that will receive the broadband Internet access service.

(2) The speed of broadband Internet access service.

(3) The price of the broadband Internet access service deployed pursuant to the grant.

**SECTION 13.** Not later than December 1 of each year, the Administrator shall issue to the Governor, the Speaker of the House of Representatives, and the President of the Senate, for public disclosure, a report regarding the program. The report must include the following information with regard to the immediately preceding calendar year:

(1) The number of applications received by the administrator in total and categorized by the Mississippi legislative district in which the addresses proposed to be served by the grant applicant are located; and

(2) The number of grants, and the amount of the grants, awarded by the administrator under this chapter in total and categorized by the Mississippi legislative district(s) in which
addresses a grant will be used to extend broadband service are located.

**SECTION 14.** This act shall take effect and be in force from and after July 1, 2022.