

By: Senator(s) Carter, Hickman, Caughman

To: Energy

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2604

1 AN ACT TO CREATE THE MISSISSIPPI BROADBAND EXPANSION ACT; TO  
2 DEFINE TERMS USED IN THE ACT; TO CREATE THE MISSISSIPPI BROADBAND  
3 EXPANSION COMMISSION FOR THE PURPOSE OF REVIEWING APPLICATIONS FOR  
4 FUNDING BROADBAND INFRASTRUCTURE PROJECTS AND MAKING  
5 RECOMMENDATIONS TO THE LEGISLATURE OF THE PROJECTS TO BE FUNDED  
6 USING FEDERAL AND STATE FUNDS; TO PROVIDE FOR THE MEMBERS OF THE  
7 COMMISSION AND TO PRESCRIBE POWERS AND DUTIES; TO PROVIDE THAT THE  
8 COMMISSION SHALL CONSIDER CERTAIN FACTORS IN MAKING ITS  
9 RECOMMENDATIONS; TO REQUIRE THE COMMISSION TO ESTABLISH AND  
10 PUBLISH ON ITS WEBSITE ITS CRITERIA FOR COMPETITIVELY SCORING  
11 APPLICATIONS; TO REQUIRE AN APPLICANT TO PROVIDE CERTAIN  
12 INFORMATION AT A MINIMUM ON THE APPLICATION; TO REQUIRE THE  
13 COMMISSION TO MAKE PRELIMINARY RECOMMENDATIONS; TO REQUIRE THE  
14 COMMISSION TO ACCEPT COMMENTS AND OBJECTIONS CONCERNING EACH  
15 PRELIMINARY RECOMMENDATION; TO REQUIRE THE COMMISSION TO MAKE ITS  
16 FINAL RECOMMENDATIONS TO THE LEGISLATURE AFTER CONSIDERING ALL  
17 COMMENTS AND OBJECTIONS AND INVESTIGATING THEM AS NEEDED; AND FOR  
18 RELATED PURPOSES.

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

20 **SECTION 1.** This act shall be known and may be cited as the  
21 "Mississippi Broadband Expansion Act."

22 **SECTION 2.** As used in this act:

23 (a) "Applicant" means a private provider that has  
24 authorization to do business in this state and has demonstrated  
25 that it has the technical, financial, and managerial resources and



26 experience to provide broadband services in the state to retail  
27 end users.

28 (b) "Broadband service" means a retail fixed  
29 terrestrial service capable of delivering high-speed internet  
30 access at speeds of at least one hundred (100) megabits per second  
31 downstream and twenty (20) megabit per second upstream.

32 (c) "Commission" means the Mississippi Broadband  
33 Expansion Commission created in Section 3 of this act.

34 (d) "Deployed" means, with respect to availability of  
35 broadband service at a location. Broadband service is considered  
36 to be deployed at a location when the person or entity has access  
37 regardless of whether a person or entity subscribes to the  
38 broadband service at the location.

39 (e) "Eligible broadband service provider" means any  
40 company, firm, corporation, limited liability company,  
41 partnership, or association that either has been providing  
42 broadband service to at least one hundred (100) residences and  
43 businesses in Mississippi for at least three (3) consecutive  
44 years, or is an electric power association's broadband affiliate  
45 operating pursuant to Section 77-17-1 et seq.; or has demonstrated  
46 financial, technical, and operational capability in building and  
47 operating a broadband network.

48 (f) "Eligible project" means a discrete and specific  
49 project located in an unserved or underserved area of the state  
50 seeking to provide broadband services to residences, businesses,



51 and community institutions not currently available for service in  
52 accordance with the applicable federal guidelines.

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

58 **SECTION 3.** (1) There is hereby created a Mississippi  
59 Broadband Expansion Commission for the purpose of reviewing  
60 applications for projects to provide broadband access in unserved  
61 or underserved areas using the Mississippi Broadband Expansion  
62 Fund created pursuant to this act. The commission shall be  
63 composed of the following five (5) members:

64 (a) Three (3) members to be appointed by the Governor  
65 with the advise and consent of the Senate; and

66 (b) Two (2) members to be appointed by the Lieutenant  
67 Governor with the advise and consent of the Senate.

68 The commission shall review applications and shall provide  
69 recommendations on which projects should be funded to the  
70 Legislature on or before December 31 of each year.

71 Members of the commission shall be reimbursed for expenses in  
72 the manner and amount specified in Section 25-3-41 and shall be  
73 entitled to receive per diem compensation as authorized in Section  
74 25-3-69.



75 Members shall not be currently employed or affiliated with  
76 any company, firm, corporation, limited liability company,  
77 partnership, or association that will provide broadband service.

78 (2) Appointments to the commission shall be made within  
79 thirty (30) days of the effective date of this act. At the first  
80 meeting, the commission shall elect from among its membership a  
81 chairman, a vice chairman and any other officers determined to be  
82 necessary, and shall adopt rules for transacting business and  
83 keeping records.

84 (3) A majority of the members of the commission shall  
85 constitute a quorum. In the adoption of rules, resolutions and  
86 reports, and in the election of a chairman, vice chairman and any  
87 other officers determined to be necessary, an affirmative vote of  
88 a majority of the members present shall be required.

89 (4) It shall be the duty and responsibility of the  
90 commission to:

91 (a) Coordinate all broadband expansion efforts on  
92 behalf of the state to ensure an effective and efficient use of  
93 broadband grant funds;

94 (b) If necessary and in accordance with the  
95 Administrative Procedures Act develop rules and procedures for  
96 federal grant programs and for sub-grantees to receive funds from  
97 said federal grants;



98                   (c) To develop rules and procedures, in accordance with  
99 the Administrative Procedures Act to implement a competitive  
100 statewide broadband grant program; and

101                   (d) Coordinate all information provided by broadband  
102 service providers. All information provided by a broadband  
103 internet access service provider pursuant to this chapter shall be  
104 presumed to be confidential, proprietary, and subject to exemption  
105 from disclosure under state and federal law and shall not be  
106 subject to disclosure except in the form of a map where  
107 information that could be used to determine provider-specific  
108 information about the network of the broadband services provider  
109 is not disclosed. Such provider-specific information shall not be  
110 released to any person without express written permission of the  
111 submitting broadband internet access services provider. In no  
112 instance shall a broadband provider be required to provide any  
113 data beyond that which it is required to provide to the Federal  
114 Communications Commission pursuant to 47 USC Section 641 et seq.

115                   (5) As may be requested by the commission, the Public  
116 Utilities Staff shall provide the staff and other support  
117 necessary for the commission to perform its duties. The  
118 commission shall also have the ability to employ staff and/or  
119 consultants as they deem appropriate.

120                   (6) It shall be the duty and responsibility of the Public  
121 Utilities Staff and other support staff employed by the commission  
122 to:



123           (a) Work in conjunction with the Governor to apply for  
124 and to receive federal grants or funds, including, but not limited  
125 to, Coronavirus Capital Projects Fund established by Section 604  
126 of the Social Security Act, as added by Section 9901 of the  
127 American Rescue Plan Act of 2021, and the Broadband Equity, Access  
128 and Deployment Program established by the Infrastructure  
129 Investment and Jobs Act; and

130           (b) Work in conjunction with the Mississippi Broadband  
131 Expansion Commission as established by this act.

132           (7) To effectuate the purposes of this act, any department,  
133 division, board, bureau, committee, institution or agency of the  
134 state, or any political subdivision thereof, shall, at the request  
135 of the chairman of the commission, provide the facilities,  
136 assistance, information and data needed to enable the commission  
137 to carry out its duties.

138           (8) There is hereby created within the State Treasury the  
139 "Mississippi Broadband Expansion Fund" for the purposes of the  
140 expansion of broadband in unserved and underserved areas. The  
141 fund shall consist of all monies designated, accepted, or  
142 appropriated by the State of Mississippi for broadband deployment;  
143 all monies received from the federal government awarded to or  
144 allocated by the state for broadband deployment; and donations,  
145 gifts, and monies received from any other source, included  
146 transfers from other funds or accounts. Disbursements from the  
147 fund shall be in accordance with Section 5 of this act.



148           **SECTION 4.** In making its recommendations, the commission  
149 shall consider the following:

150           (a) Funds for the grant program shall only be used by  
151 applicants for projects that exclusively extend broadband service  
152 into unserved or underserved areas in this state; and

153           (b) Federal funds shall be spent in accordance with  
154 federal rules and regulations, which shall govern in the case of  
155 any inconsistency.

156           **SECTION 5.** The criteria for recommending to the Legislature  
157 an appropriation of funds shall include the following:

158           (a) The applicant's experience and financial  
159 wherewithal to deploy, operate and manage the proposed project and  
160 broadband service offerings, including evidence of the applicant's  
161 successful operations of broadband services to retail end users;

162           (b) The readiness to build, operate and maintain the  
163 project;

164           (c) Projects that will deploy broadband service to the  
165 most unserved or underserved areas for the lowest grant amount per  
166 location;

167           (d) The scalability of the proposed project network to  
168 support the deployment of higher broadband speeds over time;

169           (e) The likelihood that the unserved or underserved  
170 area will not be served with broadband service without state grant  
171 funding;



172 (f) The applicant's ability to demonstrate the  
173 community's support for the project and a collaborated plan to  
174 leverage broadband services for community needs and economic  
175 development, such as rural development, education, tourism, new  
176 investment, or business attraction or retention;

177 (g) The commission shall grant a preference for those  
178 applications seeking to deploy and provide broadband services to  
179 areas in which there is currently no fixed terrestrial internet  
180 access service available; and

181 (h) The commission shall not discriminate or give any  
182 preferences to applications on the basis of the type of technology  
183 proposed by any applicant to be used to provide broadband services  
184 so long as the technology proposed meets the federal guidelines.

185 **SECTION 6.** Within ninety (90) days after the commission is  
186 appointed and after notice and opportunity to comment, the  
187 commission shall establish and publish on its website its criteria  
188 for competitively scoring applications. Specific criteria to be  
189 considered when weighing or scoring an application are as follows:

190 (a) The size and scope of the unserved or underserved  
191 area to be deployed;

192 (b) The criteria outlined in Section 5 of this act; and

193 (c) The broadband service speed thresholds proposed in  
194 the application and the scalability of the broadband service  
195 network infrastructure proposed to be deployed to provide  
196 broadband service to households and businesses.





197           **SECTION 7.** (1) An applicant for funding under this act  
198 shall provide the following information at a minimum on the  
199 application:

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

201                   (b) The kind and amount of broadband infrastructure to  
202 be deployed for the project, including the amount the applicant  
203 intends to invest in the project from private funds;

204                   (c) Evidence regarding the unserved or underserved  
205 nature of the community in which the project is to be located;

206                   (d) The number of households that will have access to  
207 broadband service as a result of the project, or whose internet  
208 access service will be upgraded to broadband service as a result  
209 of the project;

210                   (e) The significant community institutions that will  
211 benefit from the proposed project;

212                   (f) Evidence of community support for the project with  
213 a narrative on the impact that the investment will have on  
214 community and economic development efforts in the area;

215                   (g) The total cost of the project and a detailed budget  
216 and schedule for the project, including the submission of a  
217 business plan that provides for the use of funds provided under  
218 this act. Funds shall not be used to support the operational  
219 expenses of the network or to subsidize any other service provided  
220 by the applicant; and



221 (h) The broadband service provider's experience and  
222 financial capabilities.

223 (2) After scoring and considering all applications, the  
224 commission shall make its preliminary recommendations. Within  
225 thirty (30) days after the preliminary recommendations have been  
226 made, the commission shall publish on its website the  
227 applications, the proposed geographic broadband service area  
228 illustrated by a shapefile, and the proposed broadband service  
229 speeds for each application that receives a recommendation.

230 (3) Within thirty (30) days from the date the preliminary  
231 recommendations are published on the commission's website, the  
232 commission shall accept comments or objections concerning each  
233 application. The commission shall consider all comments or  
234 objections received and investigate them as needed, in deciding  
235 whether an applicant is eligible for a final recommendation. If  
236 an objection submitted by a provider contains information that  
237 requires an investigation and the objection is found to be  
238 inaccurate, the provider shall reimburse the commission for the  
239 cost of verifying the information.

240 (4) The commission shall not recommend to the Legislature an  
241 applicant if verifiable information is made available that shows  
242 the proposed project includes an area where construction of a  
243 network to provide broadband service is underway, and the  
244 construction is scheduled to be completed within one (1) year  
245 after the date of the application.



246 (5) An applicant's or challenging party's trade secrets,  
247 financial information, and proprietary information submitted under  
248 this act as part of an application or challenge are exempt from  
249 disclosure under the Mississippi Public Records Act, Section  
250 25-61-1 et seq.

251 (6) After considering all comments or objections and  
252 investigating them as needed, the commission shall report on or  
253 before December 31 of each year, to the Legislature with its final  
254 recommendations of applicants that should be funded.

255 **SECTION 8.** This act shall take effect and be in force from  
256 and after passage.

