

By: Representatives Bounds, Stamps

To: Public Utilities

HOUSE BILL NO. 1067

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 OFFICE OF BROADBAND EXPANSION AND
 4 ACCESSIBILITY OF MISSISSIPPI TO ESTABLISH AND ADMINISTER THE
 5 BROADBAND ACCESSIBILITY GRANT PROGRAM FOR THE PURPOSE OF PROMOTING
 6 THE DEPLOYMENT AND ADOPTION OF BROADBAND INTERNET ACCESS SERVICES
 7 TO UNSERVED AREAS; TO PROVIDE THAT THE PROGRAM SHALL BE
 8 ADMINISTERED PURSUANT TO POLICIES DEVELOPED BY BEAM, SUBJECT TO
 9 THE REQUIREMENTS OF THE ACT, WHICH SHALL PROVIDE FOR THE AWARDING
 10 OF GRANTS TO NON-GOVERNMENTAL 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.** This act shall be known and may be cited as the
 16 "Mississippi Broadband Accessibility Act".

17 **SECTION 2.** The Legislature finds that the availability of
 18 high-speed broadband services, in unserved areas of Mississippi is
 19 important for economic development, education, health care, and
 20 emergency services in Mississippi, and that grants and other
 21 incentives set forth in this act will further those objectives by
 22 encouraging new investment in broadband infrastructure.



23 **SECTION 3.** For the purposes of this act, the following words
24 shall have the meanings as defined in this section, unless the
25 context clearly indicates otherwise:

26 (a) "BEAM" means the Office of Broadband Expansion and
27 Accessibility of Mississippi within the Department of
28 Finance and Administration, as created in Section 77-19-5.

29 (b) "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 this act.

35 (c) "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 (e) "Unserved area" means any rural area in which there
39 is not at least one provider of terrestrial broadband service that
40 is either: (i) offering a connection to the Internet; or (ii) is
41 required, under the terms of the Federal Universal Service Fund or
42 other federal or state grant, to provide a connection to the
43 Internet at speeds meeting the minimum service threshold by July
44 1, 2023.

45 **SECTION 4.** (1) The Director of the Office of Broadband
46 Expansion and Accessibility of Mississippi (BEAM) shall establish
47 and administer the broadband accessibility grant program for the



48 purpose of promoting the deployment and adoption of broadband
49 Internet access services to unserved areas. By August 1, 2023, the
50 director shall adopt rules and policies to administer the program
51 and begin to accept applications for grants, and shall adopt such
52 rules as may be necessary to meet the future needs of the grant
53 program.

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

62 (3) There is hereby created the Mississippi Broadband
63 Accessibility Fund as a special fund in the State Treasury. The
64 fund is subject to appropriations by the Legislature and gifts,
65 grants, and other donations received by BEAM for the broadband
66 accessibility grant program or fund. BEAM may not spend
67 appropriations for the program for purposes other than those
68 listed in this section. Any monies appropriated to BEAM for
69 broadband grants that are unspent at the end of a fiscal year
70 shall be carried over for use by the program in the next fiscal
71 year. BEAM shall develop rules ensuring that expenses incurred to
72 administer the program must not exceed the lesser of five percent



73 (5%) of the total amount appropriated for the program in any
74 fiscal year or Seven Hundred Fifty Thousand Dollars (\$750,000.00).
75 Monies in the fund shall be invested by the State Treasurer for
76 the sole benefit of the fund.

77 (4) (a) Individual grants awarded by BEAM under this
78 section may only be awarded for projects in unserved areas, and
79 may not exceed the lesser of:

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

82 (ii) One Million Five Hundred Thousand Dollars
83 (\$1,500,000.00) for projects that will be capable of transmitting
84 broadband signals at or above the minimum service threshold.

85 (b) BEAM shall ensure that not less than eighty percent
86 (80%) of funds appropriated for grants be utilized in unserved
87 areas of the state.

88 (c) Subject to the limitations in this subsection (4),
89 grants shall be awarded pursuant to the service criteria developed
90 by BEAM, with priority given to projects that meet any of the
91 following:

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

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



97 (iii) Demonstrate the operator's technical and
98 managerial capabilities to complete the project within one (1)
99 year of the grant award;

100 (iv) Demonstrate the applicants' necessary
101 financial resources;

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

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

116 (5) For each fiscal year in which grant funds are available,
117 BEAM shall accept applications within a 60-day grant window that
118 it shall establish. Applications for eligible projects will be
119 evaluated according to a scoring system developed by BEAM that
120 incorporates the priorities listed in this section, with grant
121 awards published within ninety (90) days after expiration of the



122 filing window. Grant applications shall be published by BEAM on
123 the Internet at the end of the filing window, and existing service
124 providers shall have thirty (30) business days from the date of
125 publication to file objections to the eligibility of a proposed
126 project. BEAM shall address any objections within thirty (30)
127 days of submission and shall make any appropriate changes to grant
128 awards based on a finding of ineligibility resulting from such
129 protest. Subject to such protest procedure, grants issued by BEAM
130 shall be conditioned upon compliance with the terms of the grant
131 but shall not otherwise be revocable. Providers' grants shall be
132 paid within thirty (30) days upon both BEAM and the Department of
133 Revenue receiving written certification of the completion of the
134 project and evidence of compliance with the terms of the grant as
135 prescribed by BEAM.

136 (6) Grants shall be conditioned on project completion within
137 one (1) year of awarding of the grant. If a recipient fails to
138 complete a project within the one-year deadline due to reasons
139 other than delay caused by a government entity, BEAM shall revoke
140 the grant in its entirety and rededicate the funds to a new
141 recipient.

142 (7) BEAM shall condition the release of any grant funds
143 awarded under this act on both of the following:

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



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

152 (c) Utilization of broadband high speed transmission
153 technologies that are not only fiber, but also technologies such
154 as digital subscriber line (DSL), cable modem, wireless,
155 satellite, broadband over powerlines (BPL), or other available
156 broadband high speed transmission technologies.

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

159 (a) Projects to serve unserved areas in which the grant
160 applicant is either or both: (i) an existing or future service
161 provider which has or will receive support through federal
162 universal service funding programs designed specifically to
163 encourage broadband deployment in an area without broadband
164 access; or (ii) an existing or future service provider which has
165 or will receive other forms of federal or state financial support
166 or assistance; provided, however, that any award of state funds
167 under this section, when combined with other forms of state or
168 federal support or assistance dedicated to the project, other than
169 interest-bearing loans, may not exceed sixty percent (60%) of the
170 total project costs. Nothing in this section shall prohibit a



171 grant applicant who has previously received any federal or state
172 funds, grants or loans for broadband deployment from applying for
173 and receiving grant funds under this section.

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

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

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



196 **SECTION 5.** This act shall take effect and be in force from
197 and after July 1, 2023.

