

By: Representative Bounds

To: Public Utilities;
Appropriations

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1029

1 AN ACT TO CREATE THE MISSISSIPPI BROADBAND ACCESSIBILITY ACT;
2 TO PROVIDE FOR LEGISLATIVE FINDINGS; TO PROVIDE DEFINITIONS; TO
3 CREATE THE MISSISSIPPI BROADBAND COMMISSION; TO PROVIDE FOR THE
4 APPOINTMENT AND TERMS OF THE COMMISSIONERS; TO PROVIDE FOR THE
5 COMMISSION TO APPOINT AN EXECUTIVE DIRECTOR; TO PROVIDE FOR THE
6 EXECUTIVE DIRECTOR'S POWERS AND DUTIES; TO PROVIDE CRIMINAL
7 VIOLATIONS FOR CERTAIN ACCEPTANCE OR GIVING OF GIFTS BY OR TO THE
8 EXECUTIVE DIRECTOR, EMPLOYEE OR CONTRACTOR OF THE COMMISSION; TO
9 CREATE THE MISSISSIPPI BROADBAND ACCESSIBILITY FUND; TO PROVIDE
10 THAT THE COMMISSION SHALL ESTABLISH AND ADMINISTER THE BROADBAND
11 ACCESSIBILITY GRANT PROGRAM; TO CREATE THE MISSISSIPPI BROADBAND
12 ADVISORY COMMITTEE; TO REQUIRE AN ANNUAL REPORT BY THE COMMISSION;
13 AND FOR 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 Internet services in the State of Mississippi
19 is important for economic development, education, health care and
20 emergency services in the state, and that the grants and other
21 incentives set forth in this act will further those objectives by
22 encouraging new investment in broadband infrastructure.

23 Therefore, to expand and upgrade broadband Internet across the



24 state and to ensure the State of Mississippi maximizes the
25 substantial amount of federal dollars available to the states, the
26 Legislature establishes the Mississippi Broadband Commission. It
27 will be the responsibility of the commission to secure and
28 administer federal grants, promulgate rules and regulations for
29 such grants, and determine the most efficient use of federal and
30 state dollars to maximize the distribution of broadband throughout
31 the State of Mississippi.

32 **SECTION 3.** For the purposes of this act, the following words
33 shall have the following meanings unless the context clearly
34 indicates otherwise:

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

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



48 (c) "Commission" means the Mississippi Broadband
49 Commission created in Section 4 of this act.

50 (d) "High-speed symmetric services" means any service
51 that consists of or includes the provision of or connectivity to a
52 high-speed, high-capacity transmission medium that can carry
53 signals from or to multiple sources at a rate not less than one
54 hundred (100) megabits per second in the downstream direction and
55 not less than one hundred (100) megabits per second in the
56 upstream direction.

57 **SECTION 4.** (1) There is created the Mississippi Broadband
58 Commission. The commission shall be charged with coordinating all
59 broadband expansion efforts on behalf of the state as well as
60 administering all federal broadband expansion programs. The
61 commission shall be funded through state appropriations and use
62 any available federal funds for the administration of broadband
63 grants and planning. The commission shall be composed of seven
64 (7) members with three (3) members appointed by the Governor and
65 four (4) members appointed by the Lieutenant Governor; however,
66 two (2) of the members appointed by the Lieutenant Governor shall
67 be upon recommendation of the Speaker of the House. The Governor
68 shall appoint one (1) member who is a resident from each of the
69 three (3) Supreme Court districts. The Lieutenant Governor shall
70 make one (1) appointment who is a resident from each of the four
71 (4) congressional districts, and the Speaker of the House's
72 recommendations shall be from the Second Congressional District



73 and Third Congressional District with the Lieutenant Governor's
74 other two (2) appointees being residents of the First
75 Congressional District and Fourth Congressional District.

76 (2) Of the initial appointees, the members' terms shall be
77 staggered as follows: one (1) term appointed by the Governor to
78 expire on December 31, 2023; one (1) term appointed by the
79 Governor to expire on December 31, 2024; one (1) term to be
80 appointed by the Governor to expire on December 31, 2025; one (1)
81 term to be appointed by the Lieutenant Governor to expire on
82 December 31, 2024; one (1) term to be appointed by the Lieutenant
83 Governor upon the recommendation of the Speaker of the House to
84 expire on December 31, 2024; one (1) term to be appointed by the
85 Lieutenant Governor to expire on December 31, 2025; and one (1)
86 term to be appointed by the Lieutenant Governor upon the
87 recommendation of the Speaker of the House to expire on December
88 31, 2025. After the expiration of the initial terms, members of
89 the board shall serve terms of five (5) years. No member shall
90 serve more than two (2) consecutive terms. Members may be removed
91 by the appointing public official for neglect of duty, misfeasance
92 or nonfeasance in office. Upon the initial appointment of a
93 majority of the commissioners, the Lieutenant Governor shall call
94 the first meeting of the commission within thirty (30) calendar
95 days, at which time the commission shall elect a chairman. Four
96 (4) members of the commission shall constitute a quorum. The
97 commission shall meet at such times as the chairman shall



98 determine, and shall also meet upon call of three (3) or more of
99 the commissioners. The commission shall annually elect a chairman
100 from among its members. The commission shall keep accurate and
101 complete records of all its meetings.

102 (3) Commissioners shall be entitled to per diem compensation
103 pursuant to Section 25-3-69 paid by the commission and shall be
104 reimbursed by the commission for necessary travel and other
105 reasonable expenses incurred in the performance of their official
106 duties. No commissioner shall be considered a public officer.

107 (4) The Department of Finance and Administration shall
108 provide the commission with conference and office space for
109 operations, initial staffing support and other ancillary costs
110 needed by the commission. Such costs shall be funded through
111 appropriations by the Legislature.

112 (5) The executive director of the commission shall be
113 appointed by the commission and must hold at least a bachelor's
114 degree and shall have a minimum of five (5) years' managerial
115 experience with a thorough knowledge of the
116 telecommunications/utility industry. The executive director shall
117 possess experience in reviewing and administering grant and/or
118 financial applications for the purpose of public projects. The
119 salary of the executive director shall be set by the State
120 Personnel Board and shall be comparable to salaries of those
121 holding similar positions in other state and federal agencies and
122 commensurate with the duties and responsibilities imposed on this



123 official position which affects the broad interests of the State
124 of Mississippi.

125 (6) The executive director shall have general charge of the
126 operations, necessary staffing and administration of the office.
127 It shall be the duty and responsibility of the executive director
128 to supervise and manage the personnel and formulate written
129 policies and procedures for the effective and efficient operation
130 thereof. In addition, the executive director may:

131 (a) Enter into contracts for services of, but not
132 limited to, legal, accounting and engineering; and

133 (b) Enter into agreements with other state agencies to
134 coordinate and share services, to conduct joint projects, and to
135 receive support and information.

136 (7) It shall be the duty and responsibility of the
137 commission and through the executive director to:

138 (a) Receive, administer and oversee all federal and any
139 applicable state grant programs with regard to broadband
140 deployment in and for the State of Mississippi, including, but not
141 limited to, Coronavirus Capitol Projects Fund established by
142 Section 604 of the Social Security Act, as added by Section 9901
143 of the American Rescue Plan Act of 2021, and the Broadband Equity,
144 Access and Deployment Program established by the Infrastructure
145 Investment and Jobs Act;

146 (b) Work in conjunction with the Mississippi Broadband
147 Advisory Committee as set forth in Section 8 of this act;



148 (c) Administer and oversee all federal and any
149 applicable state grant programs in accordance with the guidelines,
150 guidance, rules, regulations and/or other criteria, as may be
151 amended from time to time, by the appropriate federal or state
152 agency responsible for said grant program;

153 (d) If necessary and in accordance with the
154 Administrative Procedures Act develop rules and procedures for
155 federal and any applicable state grant programs and for
156 sub-grantees to receive funds from said grants;

157 (e) Coordinate all broadband expansion efforts on
158 behalf of the state to ensure an effective and efficient use of
159 broadband grants funds;

160 (f) To develop rules and procedures, in accordance with
161 the Administrative Procedures Act, to implement a competitive
162 statewide broadband grant program;

163 (g) Coordinate all information provided by broadband
164 Internet access service providers. All information provided by a
165 broadband Internet access service provider pursuant to this
166 chapter shall be presumed to be confidential, proprietary, and
167 subject to exemption from disclosure under state law and shall not
168 be subject to disclosure except in the form of a map where
169 information that could be used to determine provider-specific
170 information about the network of the broadband Internet access
171 services provider is not disclosed. Such provider-specific
172 information shall not be released to any person without express



173 permission of the submitting broadband Internet access service
174 provider. In no instance shall a broadband Internet access
175 service provider be required to provide any data beyond that which
176 it is required to provide to the Federal Communications Commission
177 pursuant to 47 USC Section 641 et seq.

178 **SECTION 5.** (1) It shall be unlawful for the executive
179 director or any employee or contractor of the Mississippi
180 Broadband Commission to knowingly accept any gift, pass, money,
181 emolument or other pecuniary benefit whatsoever, either directly
182 or indirectly, from any person interested as owner, agent or
183 representative, or any person acting in any respect for such
184 owner, agent or representative of a broadband Internet access
185 service provider or any other company that may attempt to receive
186 a grant administered by the Mississippi Broadband Commission. Any
187 person found guilty of violating this subsection shall immediately
188 forfeit his or her position and shall be fined not less than Five
189 Thousand Dollars (\$5,000.00), or imprisoned in the State
190 Penitentiary for no less than one (1) year, or both.

191 (2) It shall be unlawful for any person interested as owner,
192 agent or representative, or any person acting in any respect for
193 such owner, agent or representative of a broadband Internet access
194 service provider or any other company that may attempt to receive
195 a grant administered by the commission to offer any gift, pass,
196 money, emolument or other pecuniary benefit whatsoever, either
197 directly or indirectly, to the executive director, any employee or



198 contractor of the commission. Any person found guilty of
199 violating this subsection shall be fined not less than Five
200 Thousand Dollars (\$5,000.00), or imprisoned in the State
201 Penitentiary for no less than one (1) year, or both.

202 (3) For purposes of this section, the term "emolument"
203 includes salary, donations, loans, stock tips, vacations, trips,
204 honorarium, directorships or consulting posts.

205 **SECTION 6.** (1) There is created as a special fund in the
206 State Treasury the Mississippi Broadband Accessibility Fund. The
207 fund shall consist of any monies appropriated to the fund by the
208 Legislature for broadband deployment, monies received from the
209 federal government awarded to or allocated by the state for
210 broadband deployment, and any other monies received from any other
211 source, including transfers from other funds or accounts. All
212 unexpended and unencumbered monies in the fund at the end of the
213 fiscal year shall remain in the fund. Monies in the fund shall be
214 invested by the State Treasurer in the same manner as monies in
215 the State General Fund and interest earned on the investment of
216 those monies shall be credited to the fund. The fund shall be
217 audited annually by the State Auditor.

218 (2) The commission shall establish and administer the
219 broadband accessibility grant program for the purpose of promoting
220 the deployment and adoption of broadband Internet access services
221 to unserved areas. By August 1, 2022, the commission shall adopt
222 rules and procedures to administer the program and begin to accept



223 applications for grants, and shall adopt such rules as may be
224 necessary to meet the future needs of the grant program. An award
225 of funds must be issued by a competitive grant process. The grant
226 process shall be technology neutral and shall result in awards to
227 applicants that are eligible broadband Internet access service
228 providers proposing projects based on objective and efficient
229 measures and procedures.

230 **SECTION 7.** The commission shall not award grants for the
231 following projects upon a showing of verifiable information:

232 (a) A project at a location where high-speed symmetric
233 services are already offered, or where a construction project is
234 underway or has been announced to deliver high-speed symmetric
235 services and scheduled to be completed within one (1) year after
236 the date of application; or

237 (b) A project that is subject to an applicant's
238 previous commitment as a condition of governmental approval of an
239 application for sale, merger, acquisition, general rule
240 transaction of indirect change in control, or any other
241 enforceable broadband Internet access service deployment
242 commitment prior to or after the effective date of this act.

243 **SECTION 8.** (1) There is created the Mississippi Broadband
244 Advisory Committee to be composed of seven (7) members consisting
245 of the following:

246 (a) Three (3) members of the State Senate, including
247 the Chairman of the Senate Energy Committee, the Chairman of the



248 Senate Appropriations Committee and a Senator appointed by the
249 Lieutenant Governor.

250 (b) Three (3) members of the House of Representatives,
251 including the Chairman of the House Public Utilities Committee,
252 the Chairman of the House Appropriations Committee and a
253 Representative appointed by the Speaker of the House.

254 (c) One (1) member appointed by the Governor.

255 (2) The Mississippi Broadband Advisory Committee shall meet
256 at least biannually at the call of the chairman to aid the
257 commission in formulating policies, discussing problems and
258 considering any other matters under this chapter that the advisory
259 committee deems it appropriate to provide advice to the
260 commission. The commission shall pay no per diem or other
261 compensation to the members of the advisory committee.

262 (3) The commission shall update the advisory committee on
263 statewide broadband planning efforts, development of grant
264 programs, execution of federal broadband deployment grant
265 opportunities, and the efforts to serve all unserved areas of the
266 state.

267 **SECTION 9.** Not later than December 1 of each year, the
268 commission shall issue to the Governor, the Speaker of the House,
269 and the President of the Senate, for public disclosure, a report
270 regarding broadband grants awarded in the state for the preceding
271 calendar year. The report must include the total amount of the
272 grants awarded by the commission, categorized by the Mississippi



273 legislative districts in which a grant will be used to extend
274 broadband service.

275 **SECTION 10.** This act shall take effect and be in force from
276 and after July 1, 2022, and shall stand repealed from and after
277 June 30, 2022.

