

By: Representative Powell

To: Public Utilities;
Appropriations

HOUSE BILL NO. 1030

1 AN ACT TO CREATE THE MISSISSIPPI BROADBAND EXPANSION ACT; TO
2 PROVIDE DEFINITIONS; TO ESTABLISH THE MISSISSIPPI OFFICE OF
3 BROADBAND; TO PROVIDE THE DUTIES OF THE OFFICE; TO CREATE THE
4 MISSISSIPPI BROADBAND GRANT PROGRAM; AND FOR RELATED PURPOSES.

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

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

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

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

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

18 (c) "Broadband Internet access service" means a
19 mass-market retail service by wire or radio provided to customers



20 in the State of Mississippi that provides the capability to
21 transmit data to, and receive data from, all or substantially all
22 Internet endpoints, including, but not limited to, any
23 capabilities that are incidental to and enable the operation of
24 the communications service, but excluding dial-up Internet access
25 service.

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

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



44 demonstrated financial, technical, and operational capability in
45 building and operating a broadband network.

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

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

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

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

66 **SECTION 4.** The Mississippi Office of Broadband shall be
67 charged with coordinating all broadband expansion efforts on
68 behalf of the state as well as administering all federal broadband



69 expansion programs. The Mississippi Office of Broadband may be
70 funded through state appropriations and use any available federal
71 funds for the administration of broadband grants and planning.
72 The office shall seek public comment on any additional guidelines
73 or requirements to be adopted.

74 **SECTION 5.** The Mississippi Office of Broadband shall be the
75 state entity responsible for coordinating all information provided
76 by broadband Internet access service providers. All information
77 provided by a broadband Internet access service provider pursuant
78 to this chapter shall be presumed to be confidential, proprietary,
79 and subject to exemption from disclosure under state and federal
80 law and shall not be subject to disclosure except in the form of a
81 map where information that could be used to determine
82 provider-specific information about the network of the broadband
83 services provider is not disclosed. Such provider-specific
84 information shall not be released to any person without express
85 permission of the submitting broadband Internet access services
86 provider. In no instance shall a broadband provider be required
87 to provide any data beyond that which it is required to provide to
88 the Federal Communications Commission pursuant to 47 USC Section
89 641 et. seq. (The Broadband Deployment Accuracy and Technological
90 Availability Act).

91 **SECTION 6.** The Mississippi Broadband Grant Program is
92 created to implement a statewide broadband grant program. There
93 is hereby created as a special fund in the State Treasury the



94 Mississippi Broadband Opportunity Fund ("the fund"). The fund
95 shall consist of all monies appropriated by the Mississippi
96 Legislature for broadband deployment; all monies received from the
97 federal government awarded to or allocated by the state for
98 broadband deployment; and donations, gifts, and monies received
99 from any other source, including transfers from other funds or
100 accounts. All unexpended and unencumbered monies in the fund at
101 the end of the fiscal year shall remain in the fund. Monies in
102 the fund shall be invested by the State Treasurer in the same
103 manner as monies in the State General Fund and interest earned on
104 the investment of those monies shall be credited to the fund.
105 Monies in the fund shall be used solely for providing grants to
106 help fund broadband access in unserved areas; the administrator
107 may utilize up to one percent (1%) of the fund to administer the
108 grant program.

109 **SECTION 7.** (1) Appropriated funds for the grant program
110 shall only be used by the administrator toward applicants for
111 projects that extend and enhance broadband Internet access service
112 into unserved areas in this state and for the administrator's
113 costs to administer the program.

114 (2) Grant funds shall not be directly or indirectly awarded
115 to a governmental entity or educational institution or an
116 affiliate, to own, purchase, construct, operate, or maintain a
117 communications network, or to provide service to any residential
118 or commercial premises.



119 (3) An award of grant funds by the administrator may not, as
120 a condition of the award, impose any regulatory requirements not
121 otherwise specifically authorized under this act or any other
122 provision of Mississippi law applicable to a provider of broadband
123 Internet access services.

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

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

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

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

141 (c) The scalability of the proposed project network to
142 support the deployment of higher broadband Internet access speeds
143 over time.



144 (d) The likelihood that the unserved area will not be
145 served with broadband service without state grant funding.

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

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

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

162 **SECTION 9.** (1) Within sixty (60) days after the effective
163 date of this act and after notice and opportunity to comment, the
164 administrator shall establish and publish on its website its
165 criteria for competitively scoring applications. Specific
166 criteria to be considered when weighing or scoring an application
167 are as follows:



168 (a) The size and scope of the unserved area to be
169 deployed.

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

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

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

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

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

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

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

191 (b) The kind and amount of broadband infrastructure to
192 be deployed for the project, including the amount the applicant



193 intends to invest in the project from private funds. The
194 applicant shall also provide the minimum upload and download
195 speeds or tiers of service available to the end user.

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

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

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

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

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

215 (h) The broadband service provider's experience and
216 financial capabilities, including that the provider must be
217 operating existing network facilities of a similar size and scope



218 providing broadband services and can demonstrate that such
219 operations are financially sound.

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

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

239 (4) The administrator shall not award a grant to an
240 applicant if verifiable information is made available that shows
241 any of the following:



242 (a) The proposed project includes an area that is
243 already being served by at least one (1) provider offering
244 broadband service or who has deployed broadband facilities to an
245 area. The proposed project is subject to an applicant's previous
246 commitment as a condition of government approval of an application
247 for sale, merger, acquisition, general rule transaction of
248 indirect change in control, or any other enforceable broadband
249 service deployment commitment prior to or after the effective date
250 of this act.

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

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

262 (d) The proposed project is for the same geographic
263 area and for fiber to the premises-based broadband Internet access
264 service as that for which the applicant or an affiliate thereof
265 has been selected to receive, provisionally or otherwise, federal
266 funding, including, but not limited to, the Connect America Fund



267 or Rural Digital Opportunity Fund from the Federal Communications
268 Commission and the Reconnect Loan and Grant Program or Rural
269 Utilities Service Program from the United States Department of
270 Agriculture. If an award recommendation is rejected because of an
271 objection pertaining to paragraph (c) of this subsection, the
272 Internet service provider installing the broadband service in lieu
273 of the improper recipient shall provide notice to the
274 administrator when the construction of the broadband service is
275 completed. If no notice is received, or if the completion date is
276 later than the two (2) years allowed for in this section, the
277 Internet service provider shall reimburse the administrator for
278 the cost of verifying the status of the provider's construction.

279 (5) An applicant's or challenging party's trade secrets,
280 financial information, and proprietary information submitted under
281 this act as part of an application or challenge are exempt from
282 disclosure under the Mississippi Public Records Act (Sections
283 25-61-1 through 25-61-19).

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

290 **SECTION 12.** The administrator shall require an applicant
291 awarded funds to submit a semiannual report from the time the



292 applicant receives the funds to two (2) years after completion of
293 the project. The semiannual reports shall be made available on
294 the administrator's website. The reports shall be in a format
295 specified by the administrator and shall give an accounting by the
296 applicant of the use of the funds received and the progress toward
297 fulfilling the objectives for which the funds were granted,
298 including all of the following:

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

301 (2) The speed of broadband Internet access service.

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

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

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

314 (2) The number of grants, and the amount of the grants,
315 awarded by the administrator under this chapter in total and
316 categorized by the Mississippi legislative district(s) in which



317 addresses a grant will be used to extend broadband service are
318 located.

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

