

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2886
103RD GENERAL ASSEMBLY

5523H.04C

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 620.2450, 620.2451, 620.2454, 620.2456, and 620.2459, RSMo, and to enact in lieu thereof five new sections relating to the broadband grant program.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 620.2450, 620.2451, 620.2454, 620.2456, and 620.2459, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 620.2450, 620.2451, 620.2454, 620.2456, and 620.2459, to read as follows:

620.2450. 1. A grant program is hereby established under sections 620.2450 to 620.2458 to award grants to applicants who seek to expand access to and improve the reliability of broadband internet service in unserved and underserved areas of the state. The department of economic development shall administer and act as the fiscal agent for the grant program and shall be responsible for receiving and reviewing grant applications and awarding grants under sections 620.2450 to 620.2458. Funding for the grant program established under this section shall be subject to appropriation by the general assembly.

2. As used in sections 620.2450 to 620.2458, the following terms shall mean:

(1) "Project", the acquisition and installation of retail broadband internet service in unserved and underserved areas of the state;

(2) "Underserved area", a project area without access to wireline ~~[or fixed wireless]~~ broadband internet service of speeds of at least ~~[one hundred]~~ **three hundred** megabits per-second download and ~~[twenty]~~ **thirty** megabits per-second upload;

(3) "Unserved area", a project area without access to wireline ~~[or fixed wireless]~~ broadband internet service of speeds of at least ~~[twenty-five]~~ **one hundred** megabits per-second download and ~~[three]~~ **twenty** megabits per-second upload.

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

620.2451. 1. Grants awarded under sections 620.2450 to 620.2458 shall fund the acquisition and installation of retail broadband internet service, prioritizing projects providing speeds of at least the higher of:

(1) ~~One~~ **Five** hundred megabits per-second download and ~~one~~ **five** hundred megabits per-second upload that is scalable to higher speeds; or

(2) The minimum acceptable speed established by the Federal Communications Commission as authorized in 7 U.S.C. Section 950bb(e)(1) to (2). Any provider that is incapable of meeting the speed requirement under this subdivision shall be allowed to continue deploying broadband infrastructure at current speeds, provided that each provider quarterly updates the office of broadband development regarding the provider's maximum speed.

2. The department shall maintain a record of all federal grants awarded to entities for the purposes of providing, maintaining, and expanding rural broadband in the state of Missouri. In cases in which funds have been awarded by a federal agency but later retained, withheld, or otherwise not distributed to the original grant recipient due to failure to meet performance standards or other criteria, the department shall seek to have the funds awarded to another eligible, qualified Missouri broadband provider.

3. The funds awarded by the department to an entity for the purposes of providing, maintaining, and expanding rural broadband in the state of Missouri shall require the entity to use the funds specifically for purposes set forth in the grant. If the entity uses the proceeds or funds for any other purposes or fails to comply with any requirement established by the department through the grant or funds awarded pursuant thereto, the entity shall return any remaining proceeds expended or the value of any incentives or services received by the entity to which a monetary value can be assigned, to be repaid to the department as required by the terms of the grant or contract.

4. Any entity that was the second place finisher in any previous federal broadband funds application shall have the right of first refusal to accept defaulted funds recovered by the state at the rate previously applied for, subject to approval by the state broadband office.

620.2454. 1. At least thirty days prior to the first day applications may be submitted each fiscal year, the department of economic development shall publish on its website the specific criteria and any quantitative weighting scheme or scoring system the department will use to evaluate or rank applications and award grants under section 620.2455. Such criteria and quantitative scoring system shall include the criteria set forth in section 620.2455.

2. Within three business days of the close of the grant application process, the department of economic development shall publish on its website the proposed unserved and underserved areas, and the proposed broadband internet speeds for each application

9 submitted. Upon request, the department shall provide a copy of any application to an
10 interested party.

11 3. A broadband internet service provider that provides existing service in or adjacent
12 to the proposed project area may submit to the department of economic development, within
13 forty-five days of publication of the information under subsection 2 of this section, a written
14 challenge to an application. Such challenge shall contain information demonstrating that:

15 (1) The provider currently provides broadband internet service to retail customers
16 within the proposed unserved or underserved area;

17 (2) The provider has begun construction to provide broadband internet service to
18 retail customers within the proposed unserved or underserved area; or

19 (3) The provider commits to providing broadband internet service to retail customers
20 within the proposed unserved or underserved areas:

21 (a) Within the timeframe proposed by the applicant, **if funded entirely with private**
22 **funds; or**

23 (b) **No later than the applicable timeline to provide broadband internet service**
24 **to retail customer established in 47 U.S.C. Section 1702(h)(4)(C), if funded by a**
25 **Broadband Equity Access and Deployment Program grant.**

26 4. Within three business days of the submission of a written challenge, the department
27 of economic development shall notify the applicant of such challenge.

28 5. The department of economic development shall evaluate each challenge submitted
29 under this section. If the department determines that the provider currently provides, has
30 begun construction to provide, or commits to provide broadband internet service at speeds of
31 at least [~~twenty-five~~] **five hundred** megabits per-second download and [~~three~~] **thirty**
32 megabits per-second upload, but scalable to higher speeds, in the proposed project area, the
33 department shall not fund the challenged project.

34 6. If the department of economic development denies funding to an applicant as a
35 result of a broadband internet service provider challenge under this section and such
36 broadband internet service provider does not fulfill its commitment to provide broadband
37 internet service in the unserved or underserved area, the department of economic
38 development shall not consider another challenge from such broadband internet service
39 provider for the next two grant cycles, unless the department determines the failure to fulfill
40 the commitment was due to circumstances beyond the broadband internet service provider's
41 control.

620.2456. 1. The department of economic development shall not award any grant to
2 an otherwise eligible grant applicant where funding from the Connect America Fund has been
3 awarded, where high-cost support from the federal Universal Service Fund has been received
4 by rate of return carriers, or where any other federal funding has been awarded which did not

5 require any matching-fund component, for any portion of the proposed project area, nor shall
 6 any grant money be used to serve any retail end user that already has access to wireline or
 7 fixed wireless broadband internet service of speeds of at least twenty-five megabits per-
 8 second download and three megabits per-second upload.

9 2. No grant awarded under sections 620.2450 to 620.2458, when combined with any
 10 federal, state, or local funds, shall fund more than fifty percent of the total cost of a project.

11 3. No single project shall be awarded grants under sections 620.2450 to 620.2458
 12 whose cumulative total exceeds five million dollars.

13 4. The department of economic development shall endeavor to award grants under
 14 sections 620.2450 to 620.2458 to qualified applicants in all regions of the state.

15 5. An award granted under sections 620.2450 to 620.2458 shall not:

16 (1) Require an open access network;

17 (2) Impose rates, terms, and conditions that differ from what a provider offers in other
 18 areas of its service area;

19 (3) Impose any rate, service, or any other type of regulation beyond speed
 20 requirements set forth in section 620.2451; ~~[or]~~

21 (4) Impose an unreasonable time constraint on the time to build the service; **or**

22 **(5) Provide middle mile infrastructure as defined in 47 U.S.C. Section 1741.**

23 6. If a grant recipient fails to establish the speed requirements set forth in section
 24 620.2451, then the grant recipient shall return all grant moneys to the department.

620.2459. Pursuant to section 23.253 of the Missouri sunset act:

2 (1) The provisions of the program authorized under sections 620.2450, 620.2451,
 3 620.2452, 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458 shall sunset on
 4 June 30, ~~[2027, unless reauthorized by an act of the general assembly]~~ **2030**; and

5 (2) ~~[If such program is reauthorized, the program authorized under sections 620.2450,~~
 6 ~~620.2451, 620.2452, 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458 shall~~
 7 ~~sunset automatically six years after the effective date of the reauthorization of sections~~
 8 ~~620.2450, 620.2451, 620.2452, 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and~~
 9 ~~620.2458; and~~

10 ~~(3)]~~ Sections 620.2450, 620.2451, 620.2452, 620.2453, 620.2454, 620.2455,
 11 620.2456, 620.2457, and 620.2458 shall terminate on September first of the calendar year
 12 immediately following the calendar year in which the program authorized under sections
 13 620.2450, 620.2451, 620.2452, 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and
 14 620.2458 is sunset.