

1 SB149
2 193019-8
3 By Senators Scofield, Dial, Livingston, Singleton, Beasley,
4 Waggoner, Reed, Glover, Marsh, Albritton, Melson, Ward,
5 Whatley, Bussman, Holtzclaw, Williams, Holley, Allen, Sanford,
6 Stutts, McClendon, Orr, Smitherman, Coleman-Madison and
7 Hightower
8 RFD: Fiscal Responsibility and Economic Development
9 First Read: 11-JAN-18

1 SB149

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4 ENROLLED, An Act,

5 Relating to grants given to deploy and encourage the
6 adoption of broadband internet services; to direct the Alabama
7 Department of Economic and Community Affairs to develop rules
8 to administer the program; to establish the Alabama Broadband
9 Accessibility Fund; to provide the fund to receive
10 appropriations from the legislature, or from the receipt of
11 gifts, grants, or federal funds to be expended for the purpose
12 of the program; to provide for the criteria under which grants
13 are to be given; and to require an annual report on the
14 progress of the program.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. This act shall be known and may be cited
17 as the "Alabama Broadband Accessibility Act."

18 Section 2. The Legislature finds that the
19 availability of high-speed broadband services, with the
20 preference of speeds of 25 megabits per second of download
21 speed and three megabits per second of upload speed or
22 greater, in unserved rural Alabama is important for economic
23 development, education, health care, and emergency services in
24 Alabama, and that grants and other incentives set forth in

1 this act will further those objectives by encouraging new
2 investment in broadband infrastructure.

3 Section 3. For the purposes of this act, the
4 following words have the following meanings:

5 (1) ADECA. The Alabama Department of Economic and
6 Community Affairs.

7 (2) MINIMUM SERVICE THRESHOLD. A connection to the
8 Internet that provides capacity for transmission at an average
9 speed per customer of at least 10 megabits (10 Mbps) per
10 second downstream and at least one megabits (1 Mbps) per
11 second upstream.

12 (3) RURAL AREA. Any area within this state not
13 included within the boundaries of any incorporated city or
14 town having a population in excess of 25,000 inhabitants,
15 according to the last federal census.

16 (4) UNSERVED AREA. Any rural area in which there is
17 not at least one provider of terrestrial broadband service
18 that is either: (1) offering a connection to the Internet
19 meeting the minimum service threshold; or (2) is required,
20 under the terms of the Federal Universal Service Fund or other
21 federal or state grant, to provide a connection to the
22 internet at speeds meeting the minimum service threshold
23 within five years of the effective date of this act.

24 Section 4. (a) The Director of the ADECA is
25 authorized to establish and administer the broadband

1 accessibility grant program for the purpose of promoting the
2 deployment and adoption of broadband internet access services
3 to unserved areas. Within 90 days of the effective date of
4 this act, the director shall promulgate rules and policies to
5 administer the program and begin to accept applications for
6 grants, and shall promulgate such rules and regulations as may
7 be necessary to meet the future needs of the grant program.

8 (b) The program shall be administered pursuant to
9 policies developed by ADECA in compliance with this act. The
10 policies shall provide for the awarding of grants to
11 non-government entities that are cooperatives, corporations,
12 limited liability companies, partnerships or other private
13 business entities that provide broadband services. Nothing in
14 this chapter shall expand the authority under state law of any
15 entity to provide broadband service.

16 (c) There is hereby created the Alabama Broadband
17 Accessibility Fund in the State Treasury. The fund is subject
18 to appropriations by the legislature and gifts, grants, and
19 other donations received by ADECA for the broadband
20 accessibility grant program or fund. ADECA may not spend
21 appropriations for the program for purposes other than those
22 listed in this section. Any monies appropriated to ADECA for
23 broadband grants that are unspent at the end of a fiscal year
24 shall be carried over for use by the program in the next
25 fiscal year. ADECA shall develop rules ensuring that expenses

1 incurred to administer the program must not exceed three
2 percent (3%) of the total amount appropriated for the program
3 in any fiscal year. Moneys in the fund shall be invested by
4 the State Treasurer for the sole benefit of the fund.

5 (d) Individual grants awarded by ADECA under this
6 section may only be awarded for projects in unserved areas,
7 and may not exceed the lesser of: (1) twenty percent of the
8 project costs or (2) Seven hundred fifty thousand dollars
9 (\$750,000) for projects that will result in transmitting
10 broadband signals at speeds of at least 10 megabits per second
11 of download speed and one megabit per second of upload speed;
12 or one million four hundred thousand dollars (\$1,400,000) for
13 projects that will result in transmitting broadband signals at
14 speeds of at least 25 megabits per second of download speed
15 and three megabits per second of upload speed. Grants may be
16 given to any qualified entity pursuant to subsection (b) that
17 meets the service criteria for expenditures after the
18 effective date of this chapter. ADECA shall ensure that not
19 less than 40% of funds appropriated for grants be utilized in
20 unincorporated areas of the state. Subject to such
21 limitations, grants shall be awarded pursuant to the service
22 criteria developed by ADECA, with priority given to projects
23 that:

24 (1) Seek to leverage grant funds through private
25 investment and extension of existing infrastructure;

1 (2) Serve locations with demonstrated community
2 support, including, but not limited to, documented support
3 from local government;

4 (3) Demonstrate the operator's technical and
5 managerial capabilities to complete the project within two
6 years of the grant;

7 (4) Demonstrate the applicants' necessary financial
8 resources;

9 (5) Are most cost effective and technically
10 efficient in that they propose to serve the highest number of
11 unserved homes, businesses and community anchor points for the
12 least cost and best level of service, emphasizing projects
13 including the highest broadband speeds;

14 (6) Provide material broadband enhancement to
15 hospitals located in rural areas as defined in Section
16 22-21-20, Code of Alabama 1975.

17 (7) Support local libraries in this state for the
18 purpose of assisting the libraries in offering digital
19 literacy training pursuant to state library and archive
20 guidelines.

21 (e) The first annual commencement date to submit
22 grant applications shall be within sixty days of the effective
23 date of this act, and shall be March 1 in each subsequent
24 year. ADECA shall accept applications within a 150-day grant
25 window after the annual commencement date. Applications for

1 eligible projects will be evaluated according to a scoring
2 system developed by ADECA that incorporates the priorities
3 listed in this section, with grant awards published within
4 ninety days after expiration of the filing window. Grant
5 applications shall be published by ADECA on the internet at
6 the end of the filing window, and existing service providers
7 shall have thirty days from the date of publication to file
8 objections to the eligibility of a proposed project. ADECA
9 shall address any objections within thirty days of submission
10 and shall make any appropriate changes to grant awards based
11 on a finding of ineligibility resulting from such protest.
12 Subject to such protest procedure, grants issued by ADECA
13 shall be conditioned upon compliance with the terms of the
14 grant but shall not otherwise be revocable. Providers' grants
15 shall be paid within 30 days upon ADECA receiving written
16 certification of the completion of the project and evidence of
17 compliance with the terms of the grant as prescribed by ADECA.

18 (f) Grants shall be conditioned on project
19 completion within two years of awarding of the grant.

20 (g) Notwithstanding any other provision of this
21 Section 4, eligible projects shall include projects that have
22 received funds through other federal universal service funding
23 programs designed specifically to encourage broadband
24 deployment in an area without broadband access in an amount
25 not exceeding fifty percent of the total project cost,

1 provided, however, that any award of state funds may only be
2 utilized to either (i) fund project components that extend
3 beyond the specifications supported by the federal funding,
4 said eligible components being extension of service to
5 unserved rural areas not otherwise served by the federally
6 supported project, or (ii) ensure that areas being served by
7 the federal funding at speeds less than 25 megabits per second
8 of download speed and three megabits per second of upload
9 speed will, in fact, receive faster speeds of not less than 25
10 megabits per second of download speed and three megabits per
11 second of upload speed. Grants issued under this subsection
12 (g) shall not exceed 40% of total grant funding, with such
13 grants not exceeding 20% of total project costs.

14 Section 5. (a) There is created the Alabama Rural
15 Broadband Oversight Committee. The oversight committee shall
16 consist of the Chair of the House Ways and Means Education
17 Committee or designee, the Chair of the Senate Finance and
18 Taxation Education Committee or designee, two members
19 appointed by the Speaker of the House of Representatives, two
20 members appointed by the President Pro Tempore of the Senate,
21 and the Director of ADECA or his or her designee. The
22 oversight committee shall be charged with meeting at least
23 annually and providing general oversight of the implementation
24 and recommending further statutory changes to promote rural
25 broadband development.

1 (b) The committee shall reflect the racial, gender,
2 geographic, urban/rural, and economic diversity of the state.

3 (c) For any year in which grants are distributed
4 under the program, ADECA shall produce a quarterly report on
5 the status of grants under the program to the Oversight
6 Committee, including progress toward increased access to and
7 adoption of broadband services. The report shall also be
8 published on ADECA's website. Within 12 months of the
9 effective date of this act, ADECA shall produce a report on
10 the availability of broadband within the state.

11 Section 6. If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 invalidity does not affect other provisions or applications of
14 this act which can be given effect without the invalid
15 provision or application, and to this end the provisions of
16 this are severable.

17 Section 7. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming a law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB149

Senate 01-FEB-18

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed 20-MAR-18

Senate concurred in House amendment 21-MAR-18

By: Senator Scofield