

1 SB123
2 216563-3
3 By Senator Scofield
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 01-FEB-22

1 SB123

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4 ENROLLED, An Act,

5 Relating to the Connect Alabama Act of 2021; to
6 amend Sections 41-23-271, 41-23-273, and 41-23-274, Code of
7 Alabama 1975; and to specify the minimum service threshold; to
8 authorize the Alabama Digital Expansion Division chief to
9 enter nondisclosure agreements; and to revise the expenditure
10 of the Connect Alabama Fund and allow for annual revision of
11 the program funds.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 41-23-271, 41-23-273, and
14 41-23-274, Code of Alabama 1975, are amended to read as
15 follows:

16 "§41-23-271.

17 "For the purposes of this article, the following
18 terms shall have the following meanings:

19 "(1) ADECA. The Alabama Department of Economic and
20 Community Affairs.

21 "(2) AUTHORITY. The Alabama Digital Expansion
22 Authority.

23 "(3) CONNECT ALABAMA FUND. A fund created within the
24 State Treasury to be administered by the Alabama Digital
25 Expansion Finance Corporation, with funds distributed by the

1 corporation to ADECA for use by the division for the
2 implementation and administration of the statewide
3 connectivity plan.

4 "(4) CORPORATION. The Alabama Digital Expansion
5 Finance Corporation.

6 "(5) DIVISION. The Alabama Digital Expansion
7 Division of ADECA.

8 "(6) END USER. A residential, business,
9 institutional, or government entity that uses broadband
10 services for its own purposes and does not resell the
11 broadband services to other entities.

12 "(7) MIDDLE MILE PROJECT. A broadband infrastructure
13 project that does not provide broadband service to end users
14 or to end-user devices.

15 "(8) MINIMUM SERVICE THRESHOLD. A connection to the
16 Internet that provides capacity for transmission at a minimum
17 speed per customer ~~necessary to meet the definition of~~
18 ~~advanced telecommunications capability for fixed broadband~~
19 ~~services as set by the Federal Communications Commission of at~~
20 least 100 megabits (100 Mbps) per second downstream and at
21 least 20 megabits (20 Mbps) per second upstream.

22 "(9) PROVIDER-SPECIFIC INFORMATION. Any information
23 given to ADECA or its agents by a broadband service provider
24 that identifies the provider's location-specific service
25 availability details, construction plans, or business

1 operations details that are not otherwise readily
2 ascertainable by proper means through third parties without
3 substantial effort.

4 "~~(9)~~ (10) RURAL AREA. Any area within this state not
5 included within the boundaries of any incorporated city or
6 town having a population of more than 25,000 inhabitants,
7 according to the last federal census.

8 "~~(10)~~ (11) UNSERVED AREA. Any area that is
9 determined by the division to not have at least one provider
10 of terrestrial broadband service that offers a connection to
11 the Internet that meets or exceeds the minimum service
12 threshold.

13 "§41-23-273.

14 "(a) The Alabama Digital Expansion Division is
15 created as a division of ADECA. The division shall be run by a
16 division chief, who shall be appointed by the Director of
17 ADECA, with the approval of the Governor, from a list of three
18 nominees submitted by the authority. The division chief shall
19 report to, and be under the direct supervision of, the
20 Director of ADECA. The division chief shall carry out the
21 functions and duties of the division. The division chief shall
22 be knowledgeable in matters relating to broadband and shall
23 have no financial interest in any broadband or related
24 business or enterprise which would conflict or be inconsistent

1 with his or her duties as division chief. The division chief
2 shall be employed in the exempt service.

3 "(b) The division chief shall have the power and
4 authority necessary to carry out the functions and duties of
5 the division. All functions and duties of the division shall
6 be exercised by the division chief or through such employees
7 or other individuals the division chief may designate. In the
8 performance and exercise of such powers, authorities,
9 functions, and duties, the division chief and other employees
10 of the division shall be subject to all legal requirements,
11 restrictions, limitations, conditions, and penalties, whether
12 civil or criminal. These powers, authorities, functions, and
13 duties include, but are not limited to, the following:

14 "(1) Exercise duties as the chief executive of the
15 division and exercise, consistent with this article and other
16 applicable laws, all the powers, authority, and duties vested
17 by this article and any other applicable ADECA policies and
18 regulations or laws providing for the operation of the
19 division.

20 "(2) Employ, with the approval of the Director of
21 ADECA, all individuals necessary for the efficient operation
22 of the division, including professional, technical, clerical,
23 and other staff, including attorneys, special counsel, and
24 consultants as are necessary to accomplish the objectives of
25 this article.

1 "(3) Enter into nondisclosure agreements to protect
2 proprietary information. All provider-specific information
3 provided under a nondisclosure agreement shall be presumed
4 confidential and proprietary and shall not be considered a
5 public record. Provider-specific information shall not be
6 released to any person other than to the submitting broadband
7 services provider and to appropriate ADECA staff, agents, or
8 contractors without the express written consent of the
9 submitting broadband services provider. Provider-specific
10 information shall only be used for broadband mapping, policy
11 development, grant eligibility purposes, and furthering the
12 broadband goals of the state.

13 "(c) Upon approval by the Director of ADECA, the
14 division chief may establish technical and other advisory
15 committees to advise the division with respect to specific
16 objectives.

17 "§41-23-274.

18 "The division, in collaboration with the authority,
19 shall have all of the following powers and duties:

20 "(1) To promote the expansion and availability of
21 high-speed broadband networks, services, and technologies
22 throughout the state, including, but not limited to, rural
23 areas, underserved areas, and unserved areas of the state.

24 "(2) To develop and begin executing a statewide
25 connectivity plan, as approved by the authority, to facilitate

1 the expansion and availability of high-speed broadband
2 networks, services, and technologies throughout the state,
3 including a timeline for implementation of the plan. The
4 Director of ADECA shall submit the proposed plan to the
5 authority for approval on or before July 1, 2022. The plan
6 must consider the need for broadband expansion in rural areas,
7 underserved areas, and unserved areas, as well as any other
8 obstacles to broadband adoption. It shall include
9 recommendations for funding, and plans for implementation of
10 the following objectives, including, but not limited to:

11 "a. Evaluation of the state's existing long-haul and
12 middle mile network.

13 "b. Projects for the development and expansion of a
14 secure, reliable, robust, multi-purpose, and high-quality
15 long-haul and middle mile fiber network throughout the state.
16 Projects shall be implemented in the most cost effective and
17 efficient manner for the state and should utilize existing,
18 available infrastructure where it is consistent with the plan
19 and meets the speeds, service quality, and other priorities
20 established by this article, the plan, or the authority.

21 "c. Projects for providing last-mile infrastructure
22 and lit services for specific applications and use cases that
23 are determined by the division to be a priority supported by
24 the network or portions of the network funded under the
25 statewide connectivity plan.

1 "d. Consideration of suggestions and recommendations
2 of the Alabama Supercomputer Authority.

3 "(3) To implement the authority-approved statewide
4 connectivity plan and to enter into contracts and leases for
5 purposes consistent with the priorities of the plan. In
6 developing the statewide connectivity plan, the division may
7 seek input from incumbent Internet service providers, other
8 service providers, and other owners and operators of
9 infrastructure involved in providing high-speed broadband
10 service.

11 "(4) To establish and administer ~~a broadband~~
12 ~~accessibility~~ the Connect Alabama grant program programs, in
13 collaboration with the authority, for the purpose of promoting
14 the deployment and adoption of high-speed broadband Internet
15 networks, services, and technologies throughout the state,
16 including, but not limited to, rural areas, underserved areas,
17 and unserved areas of the state consistent with the
18 requirements of this article. ~~For three years following May~~
19 ~~17, 2021, 70 percent of the state~~ Funds received by the
20 Connect Alabama Fund shall be expended by the division for the
21 extension of last-mile infrastructure in unserved areas at
22 minimum speeds as determined by the statewide connectivity
23 plan, as well as the establishment and administration of a
24 middle mile program and line extension program. ADECA may
25 establish additional Connect Alabama grant programs in

1 accordance with the goals of the statewide connectivity plan.
2 The funding amounts for programs established under this
3 article shall be evaluated for increase or decrease annually
4 with recommendations from the division and approval by the
5 authority. After this time, all All funds received for the
6 ~~statewide connectivity plan~~ Connect Alabama grant program
7 shall be expended according to ~~the goals of the program and~~
8 the statewide connectivity plan, as identified by the
9 division, and subject to any applicable legal requirements.
10 Federal and other funds received by ADECA or the Connect
11 Alabama Fund shall be expended by the division in accordance
12 with the statewide connectivity plan and any legal
13 requirements applicable to those funds.

14 "(5) To adopt rules and policies, as approved by
15 ADECA, within 90 days of establishing and receiving the
16 initial funding for the statewide connectivity plan, to
17 administer the program and to begin to accept applications for
18 grants, including any rules necessary to meet the future needs
19 of the grant program.

20 "(6) To develop strategies and support efforts to
21 attract and leverage grant funds, federal resources, and
22 private investment in furtherance of this article.

23 "(7) To accept and receive funds, gifts, grants,
24 property, labor, or other monetary or in-kind contributions of
25 any type or from any source, including, but not limited to,

1 federal and state grants, appropriations, loans, and loan
2 guarantees.

3 "(8) To administer the distribution of funds,
4 grants, loans, loan guarantees, or other funds and resources
5 received by the division and to ensure that grant funds
6 awarded under this article are used for the purposes specified
7 in this article.

8 "(9) To promote and encourage private investments
9 and applications for available grants.

10 "(10) To perform any other actions necessary or
11 convenient for the implementation and administration of this
12 article and in compliance with state and federal law."

13 Section 2. This act shall become effective
14 immediately following its passage and approval by the
15 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB123

Senate 10-FEB-22

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

Patrick Harris,
Secretary.

House of Representatives
Passed: 03-MAR-22

By: Senator Scofield