

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

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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.

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House of Representatives  
Amended and passed 20-MAR-18

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Senate concurred in House amendment 21-MAR-18

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By: Senator Scofield