

1 SB90  
2 197790-2  
3 By Senators Scofield, Marsh, Ward, Reed, Allen, Livingston,  
4 Jones, Whatley, Price, Holley, Waggoner, Williams, Sessions,  
5 Chesteen, Beasley, Albritton, Chambliss, Smitherman and  
6 Singleton  
7 RFD: Fiscal Responsibility and Economic Development  
8 First Read: 19-MAR-19

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: This bill would amend the Alabama Broadband  
9 Accessibility Act to expand the definition of an  
10 "unserved area" eligible for grant funding,  
11 increase the percentage of project costs eligible  
12 for grant funding, and to broaden the permitted use  
13 of other federal and state support, including loans  
14 and grants, in projects receiving grants under the  
15 Act.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT  
20

21 To amend sections 41-23-212, 41-23-213 and  
22 41-23-214, Code of Alabama 1975, to change the definition of  
23 an "unserved area", increase the percentage of project costs  
24 that may be funded through the Act, and to broaden the  
25 permitted use of federal support, including loans and grants,  
26 in projects receiving grants under the Act.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1                   Section 1. Sections 41-23-212, 41-23-213 and  
2                   41-23-214, Code of Alabama 1975, are amended to read as  
3                   follows:

4                   "§41-23-212.

5                   "For the purposes of this article, the following  
6                   words have the following meanings:

7                   "(1) ADECA. The Alabama Department of Economic and  
8                   Community Affairs.

9                   "(2) MINIMUM SERVICE THRESHOLD. A connection to the  
10                  Internet that provides capacity for transmission at an average  
11                  speed per customer of at least ~~10~~ 25 megabits (~~10~~ 25 Mbps) per  
12                  second downstream and at least ~~one~~ three megabits (~~1~~ 3 Mbps)  
13                  per second upstream.

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

18                  "(4) UNSERVED AREA. Any rural area in which there is  
19                  not at least one provider of terrestrial broadband service  
20                  that is either: (1) offering a connection to the Internet  
21                  meeting the minimum service threshold; or (2) is required,  
22                  under the terms of the Federal Universal Service Fund or other  
23                  federal or state grant, to provide a connection to the  
24                  Internet at speeds meeting the minimum service threshold  
25                  throughout the area by March 28, 2023.

26                  "§41-23-213.

1           "(a) The Director of ADECA may establish and  
2 administer the broadband accessibility grant program for the  
3 purpose of promoting the deployment and adoption of broadband  
4 Internet access services to unserved areas. By June 26, 2018,  
5 the director shall adopt rules and policies to administer the  
6 program and begin to accept applications for grants, and shall  
7 adopt such rules as may be necessary to meet the future needs  
8 of the grant program.

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

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

1 percent (5%) of the total amount appropriated for the program  
2 in any fiscal year. Moneys in the fund shall be invested by  
3 the State Treasurer for the sole benefit of the fund.

4 "(d) (1) Individual grants awarded by ADECA under  
5 this section may only be awarded for projects in unserved  
6 areas, and may not exceed the lesser of:

7 "a. ~~Twenty~~ Fifty percent of the project costs.

8 ~~b. Seven hundred fifty thousand dollars (\$750,000)~~  
9 ~~for projects that will result in transmitting broadband~~  
10 ~~signals at speeds of at least 10 megabits per second of~~  
11 ~~download speed and one megabit per second of upload speed.~~

12 ~~c. b.~~ b. One million four hundred thousand dollars  
13 (\$1,400,000) for projects that will result in transmitting  
14 broadband signals at the minimum service threshold ~~speeds of~~  
15 ~~at least 25 megabits per second of download speed and three~~  
16 ~~megabits per second of upload speed.~~

17 "(2) Grants may be given to any qualified entity  
18 pursuant to subsection (b) that meets the service criteria for  
19 expenditures after March 28, 2018.

20 "(3) ADECA shall ensure that not less than 40  
21 percent of funds appropriated for grants be utilized in  
22 unincorporated areas of the state.

23 "(4) Subject to the limitations in this subsection,  
24 grants shall be awarded pursuant to the service criteria  
25 developed by ADECA, with priority given to projects that meet  
26 any of the following:

1           "a. Seek to leverage grant funds through private  
2 investment and extension of existing infrastructure.

3           "b. Serve locations with demonstrated community  
4 support, including, but not limited to, documented support  
5 from local government.

6           "c. Demonstrate the operator's technical and  
7 managerial capabilities to complete the project within two  
8 years of the grant.

9           "d. Demonstrate the applicants' necessary financial  
10 resources.

11           "e. Are most cost effective and technically  
12 efficient in that they propose to serve the highest number of  
13 unserved homes, businesses and community anchor points for the  
14 least cost and best level of service, emphasizing projects  
15 including the highest broadband speeds.

16           "f. Provide material broadband enhancement to  
17 hospitals located in rural areas ~~as defined in Section~~  
18 ~~22-21-20~~.

19           "g. Support local libraries in this state for the  
20 purpose of assisting the libraries in offering digital  
21 literacy training pursuant to state library and archive  
22 guidelines.

23           "~~(e) The first annual commencement date to submit~~  
24 ~~grant applications shall be by May 27, 2018, and shall be~~  
25 ~~March 1 in each subsequent year. For each fiscal year in which~~  
26 ~~grant funds are available, ADECA shall accept applications~~  
27 ~~within a ~~150~~ 90-day grant window that it shall establish at~~

1 least sixty days in advance of the initial submission date  
2 ~~after the annual commencement date.~~ Applications for eligible  
3 projects will be evaluated according to a scoring system  
4 developed by ADECA that incorporates the priorities listed in  
5 this section, with grant awards published within 90 days after  
6 expiration of the filing window. Grant applications shall be  
7 published by ADECA on the Internet at the end of the filing  
8 window, and existing service providers shall have 30 days from  
9 the date of publication to file objections to the eligibility  
10 of a proposed project. ADECA shall address any objections  
11 within 30 days of submission and shall make any appropriate  
12 changes to grant awards based on a finding of ineligibility  
13 resulting from such protest. Subject to such protest  
14 procedure, grants issued by ADECA shall be conditioned upon  
15 compliance with the terms of the grant but shall not otherwise  
16 be revocable. Providers' grants shall be paid within 30 days  
17 upon ADECA receiving written certification of the completion  
18 of the project and evidence of compliance with the terms of  
19 the grant as prescribed by ADECA.

20 "(f) Grants shall be conditioned on project  
21 completion within two years of awarding of the grant.

22 "(g) Notwithstanding any other provision of this  
23 section, eligible projects shall include projects to serve  
24 unserved areas in which the grant applicant is either or both:  
25 (1) an existing service provider which has or will receive  
26 support ~~that have received funds~~ through ~~other~~ federal  
27 universal service funding programs designed specifically to

1 encourage broadband deployment in an area without broadband  
2 access; or (2) an existing or future service provider which  
3 has or will receive other forms of federal or state financial  
4 support or assistance, such as a grant from the United States  
5 Department of Agriculture; in an amount not exceeding 50  
6 percent of the total project cost; provided, however, that any  
7 award of state funds under this act, when combined with other  
8 forms of state or federal support or assistance, may not  
9 exceed 80 percent of the total project costs ~~may only be~~  
10 ~~utilized to either (i) fund project components that extend~~  
11 ~~beyond the specifications supported by the federal funding,~~  
12 ~~the eligible components being an extension of service to~~  
13 ~~unserved rural areas not otherwise served by the federally~~  
14 ~~supported project, or (ii) ensure that areas being served by~~  
15 ~~the federal funding at speeds less than 25 megabits per second~~  
16 ~~of download speed and three megabits per second of upload~~  
17 ~~speed will, in fact, receive faster speeds of not less than 25~~  
18 ~~megabits per second of download speed and three megabits per~~  
19 ~~second of upload speed. Grants issued under this subsection~~  
20 ~~shall not exceed 40 percent of total grant funding, with such~~  
21 ~~grants not exceeding 20 percent of total project costs~~ Loans  
22 shall not be considered state or federal support or assistance  
23 for purposes of this subsection.

24 "§41-23-214.

25 "(a) There is created the Alabama Rural Broadband  
26 Oversight Committee. The oversight committee shall consist of  
27 the Chair of the House Ways and Means Education Committee or



1 his or her designee, the Chair of the Senate Finance and  
2 Taxation Education Committee or his or her designee, two  
3 members appointed by the Speaker of the House of  
4 Representatives, two members appointed by the President Pro  
5 Tempore of the Senate, and the Director of ADECA or his or her  
6 designee. The oversight committee shall meet at least  
7 annually, provide general oversight of the implementation of  
8 the article, and recommend further statutory changes to  
9 promote rural broadband development.

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

12 "(c) For any year in which grants are distributed  
13 under the program, ADECA shall produce a ~~quarterly~~ report on  
14 the status of grants under the program to the Oversight  
15 Committee, including progress toward increased access to and  
16 adoption of broadband services. The report shall be provided  
17 at the oversight committee's first meeting of the year and  
18 ~~also be~~ published on ADECA's website. By March 28, 2019, ADECA  
19 shall produce a report on the availability of broadband within  
20 the state."

21 Section 2. Nothing in this act shall affect the  
22 approval and continued funding of grants awarded prior to the  
23 effective date of this act.

24 Section 3. If any provision of this act or its  
25 application to any person or circumstance is held invalid, the  
26 invalidity does not affect other provisions or applications of  
27 this act which can be given effect without the invalid

1 provision or application, and to this end, the provisions of  
2 this act are severable.

3 Section 4. This act shall become effective  
4 immediately following the passage and approval of this act by  
5 the Governor, or its otherwise becoming law.