

Alabama Broadband Accessibility Act.

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

Section 2. The Legislature finds that the availability of high-speed broadband services, with the preference of speeds of 25 megabits per second of download speed and three megabits per second of upload speed or greater, in unserved rural Alabama is important for economic development, education, health care, and emergency services in Alabama, and that grants and other incentives set forth in this act will further those objectives by encouraging new investment in broadband infrastructure.

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

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

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

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

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

Section 4. (a) The Director of the ADECA is authorized to establish and administer the broadband accessibility grant program for the purpose of promoting the deployment and adoption of broadband internet access services to unserved areas. Within 90 days of the effective date of this act, the director shall promulgate rules and policies to administer the program and begin to accept applications for grants, and shall promulgate such rules and regulations as may be necessary to meet the future needs of the grant program.

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

(c) There is hereby created the Alabama Broadband Accessibility Fund in the State Treasury. The fund is subject to appropriations by the legislature and gifts, grants, and other donations received by ADECA for the broadband accessibility grant program or fund. ADECA may not spend appropriations for the program for purposes other than those listed in this section. Any monies appropriated to ADECA for broadband grants that are unspent at the end of a fiscal year shall be carried over for use by the program in the next fiscal year. ADECA shall develop rules ensuring that expenses incurred to administer the program must not exceed three percent (3%) of the total amount appropriated for the program in any fiscal year. Moneys in the fund shall be invested by the State Treasurer for the sole benefit of the fund.

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

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

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

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

(4) Demonstrate the applicants' necessary financial resources;

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

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

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

(e) The first annual commencement date to submit grant applications shall be within sixty days of the effective date of this act, and shall be March 1 in each subsequent year. ADECA shall accept applications within a 150-day grant window after the annual commencement date. Applications for eligible projects will be evaluated according to a scoring system developed by ADECA that incorporates the priorities listed in this section, with grant awards published within ninety days after expiration of the filing window. Grant applications shall be published by ADECA on the internet at the end of the filing window, and existing service providers shall have thirty days from the date of publication to file objections to the eligibility of a proposed project. ADECA shall address any objections within thirty days of submission and shall make any appropriate changes to grant awards based on a finding of ineligibility resulting from such protest. Subject to such protest procedure, grants issued by ADECA shall be conditioned upon compliance with the terms of the grant but shall not otherwise be revocable. Providers' grants shall be paid within 30 days upon ADECA receiving written certification of the completion of the project and evidence of compliance with the terms of the grant as prescribed by ADECA.

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

(g) Notwithstanding any other provision of this Section 4, eligible projects shall include projects that have received funds through other federal universal service funding programs designed specifically to encourage broadband deployment in an area without broadband access in an amount not exceeding fifty percent of the total project cost, provided, however, that any award of state funds may only be utilized to either (i) fund project components that extend beyond the specifications supported by the federal funding, said eligible components being extension of service to unserved rural areas not otherwise served by the federally supported project, or (ii) ensure that areas being served by the federal funding at speeds less than 25 megabits per second of download speed and three megabits per second of upload speed will, in fact, receive faster speeds of not less than 25 megabits per second of download speed and three megabits per second of upload speed. Grants issued under this subsection (g) shall not exceed 40% of total grant funding, with such grants not exceeding 20% of total project costs.

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

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

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

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

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