

1 HB189
2 216563-1
3 By Representative Shedd
4 RFD: Urban and Rural Development
5 First Read: 01-FEB-22

SYNOPSIS: Under the Connect Alabama Act of 2021, the minimum service threshold for Internet is defined as the minimum speed necessary to meet certain federal requirements.

This bill would increase the minimum service threshold for Internet under the act to at least 100 megabits per second downstream and 20 megabits per second upstream.

This bill would authorize the Alabama Digital Expansion Division chief to enter into nondisclosure agreements to protect provider-specific information unless release of the information is expressly authorized by the service provider.

Under existing law, the Alabama Digital Expansion Division is required to use 70 percent of funds received by the Connect Alabama Fund to extend last-mile infrastructure in unserved areas.

This bill would allow for all funds received by the Connect Alabama Fund to be used to extend

1 last-mile infrastructure in unserved areas and for
2 middle mile and line extension programs.

3 This bill would also allow for the program
4 funds to be modified annually by a recommendation
5 from the Alabama Digital Expansion Division and
6 approval by the Alabama Digital Expansion
7 Authority.

8
9 A BILL
10 TO BE ENTITLED
11 AN ACT
12

13 Relating to the Connect Alabama Act of 2021; to
14 amend Sections 41-23-271, 41-23-273, and 41-23-274, Code of
15 Alabama 1975; and to specify the minimum service threshold; to
16 authorize the Alabama Digital Expansion Division chief to
17 enter nondisclosure agreements; and to revise the expenditure
18 of the Connect Alabama Fund and allow for annual revision of
19 the program funds.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 41-23-271, 41-23-273, and
22 41-23-274, Code of Alabama 1975, are amended to read as
23 follows:

24 "§41-23-271.

25 "For the purposes of this article, the following
26 terms shall have the following meanings:

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

3 "(2) AUTHORITY. The Alabama Digital Expansion
4 Authority.

5 "(3) CONNECT ALABAMA FUND. A fund created within the
6 State Treasury to be administered by the Alabama Digital
7 Expansion Finance Corporation, with funds distributed by the
8 corporation to ADECA for use by the division for the
9 implementation and administration of the statewide
10 connectivity plan.

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

13 "(5) DIVISION. The Alabama Digital Expansion
14 Division of ADECA.

15 "(6) END USER. A residential, business,
16 institutional, or government entity that uses broadband
17 services for its own purposes and does not resell the
18 broadband services to other entities.

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

22 "(8) MINIMUM SERVICE THRESHOLD. A connection to the
23 Internet that provides capacity for transmission at a minimum
24 speed per customer ~~necessary to meet the definition of~~
25 ~~advanced telecommunications capability for fixed broadband~~
26 ~~services as set by the Federal Communications Commission~~ of at

1 least 100 megabits (100 Mbps) per second downstream and at
2 least 20 megabits (20 Mbps) per second upstream.

3 "(9) PROVIDER-SPECIFIC INFORMATION. Any information
4 given to ADECA or its agents by a broadband service provider
5 that identifies the provider's location-specific service
6 availability details, construction plans, or business
7 operations details that are not otherwise readily
8 ascertainable by proper means through third parties without
9 substantial effort.

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

14 ~~"(10)~~ (11) UNSERVED AREA. Any area that is
15 determined by the division to not have at least one provider
16 of terrestrial broadband service that offers a connection to
17 the Internet that meets or exceeds the minimum service
18 threshold.

19 "§41-23-273.

20 "(a) The Alabama Digital Expansion Division is
21 created as a division of ADECA. The division shall be run by a
22 division chief, who shall be appointed by the Director of
23 ADECA, with the approval of the Governor, from a list of three
24 nominees submitted by the authority. The division chief shall
25 report to, and be under the direct supervision of, the
26 Director of ADECA. The division chief shall carry out the
27 functions and duties of the division. The division chief shall

1 be knowledgeable in matters relating to broadband and shall
2 have no financial interest in any broadband or related
3 business or enterprise which would conflict or be inconsistent
4 with his or her duties as division chief. The division chief
5 shall be employed in the exempt service.

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

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

23 "(2) Employ, with the approval of the Director of
24 ADECA, all individuals necessary for the efficient operation
25 of the division, including professional, technical, clerical,
26 and other staff, including attorneys, special counsel, and

1 consultants as are necessary to accomplish the objectives of
2 this article.

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

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

19 "§41-23-274.

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

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

26 "(2) To develop and begin executing a statewide
27 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.

26 "d. Consideration of suggestions and recommendations
27 of the Alabama Supercomputer Authority.

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

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

1 ~~authority. After this time, all~~ All funds received for the
2 ~~statewide connectivity plan~~ Connect Alabama grant program
3 shall be expended according to ~~the goals of the program and~~
4 the statewide connectivity plan, as identified by the
5 division, and subject to any applicable legal requirements.
6 Federal and other funds received by ADECA or the Connect
7 Alabama Fund shall be expended by the division in accordance
8 with the statewide connectivity plan and any legal
9 requirements applicable to those funds.

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

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

19 "(7) To accept and receive funds, gifts, grants,
20 property, labor, or other monetary or in-kind contributions of
21 any type or from any source, including, but not limited to,
22 federal and state grants, appropriations, loans, and loan
23 guarantees.

24 "(8) To administer the distribution of funds,
25 grants, loans, loan guarantees, or other funds and resources
26 received by the division and to ensure that grant funds

1 awarded under this article are used for the purposes specified
2 in this article.

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

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

8 Section 2. This act shall become effective
9 immediately following its passage and approval by the
10 Governor, or its otherwise becoming law.