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3 SCOFIELD FLOOR SUBSTITUTE FOR SB253  
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8 SYNOPSIS: Under existing law, the Alabama Renewal Act  
9 was designed to create new programs within the  
10 state for the growth of business and industry in  
11 Alabama by providing certain tax credits to  
12 encourage economic development.

13 This bill would encourage accelerated  
14 private investment in broadband infrastructure in  
15 rural areas by amending the Alabama Renewal Act to  
16 provide a nonrefundable, transferable income tax  
17 credit equal to 10 percent of the investment in new  
18 qualified broadband network facilities in rural  
19 areas, subject to a cap. The income tax credit  
20 would be limited each tax year.

21 This bill would provide a 10-year property  
22 tax exemption for new qualified broadband network  
23 facilities in rural areas and an exemption from  
24 sales and use tax for equipment and materials  
25 incorporated into or used to operate any qualified  
26 broadband network facilities.

1                   This bill would also provide for the repeal  
2                   of this bill following the close of fiscal year  
3                   2025, with certain conditions.

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5                   A BILL  
6                   TO BE ENTITLED  
7                   AN ACT

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9                   To amend the Alabama Renewal Act by adding Section  
10                  40-18-415.1 to the Code of Alabama 1975, to provide for new,  
11                  qualified broadband network facilities and a nonrefundable,  
12                  transferable credit against income tax liability imposed by  
13                  state law; to provide an exemption from ad valorem taxation  
14                  under state law and from sales and use tax levied, assessed,  
15                  or payable under state law; to limit the term of the ad  
16                  valorem tax exemptions and to cap the income tax credits; to  
17                  provide for the carry forward of certain earned but unused  
18                  credits; to provide methods for claiming the exemptions or  
19                  credits; and to amend Act 2016-102, 2016 Regular Session, now  
20                  appearing as Section 40-18-416, Code of Alabama 1975, to  
21                  provide for the repeal of its provisions under certain  
22                  conditions.

23                  BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24                  Section 1. This act shall be known and may be cited  
25                  as the Alabama Rural Broadband Amendment to the Alabama  
26                  Renewal Act.

1           Section 2. The Legislature finds that the  
2           availability of high-speed broadband services in rural Alabama  
3           is important for economic development, education, health care,  
4           and emergency services in Alabama, and that incentives set  
5           forth in this act will further those objectives by encouraging  
6           new investment in broadband infrastructure.

7           Section 3. Section 40-18-415.1 is added to Chapter  
8           18, Article 19, Title 40, Code of Alabama 1975, to read as  
9           follows:

10           §40-18-415.1.

11           (a) For the purposes of this section, the following  
12           words have the following meanings:

13           (1) QUALIFIED BROADBAND NETWORK FACILITIES.

14           Electronics, equipment, transmission facilities, fiber optic  
15           and copper cables, fixed wireless facilities, mobile wireless  
16           facilities, and any other real or personal property forming  
17           part of a system used directly or indirectly to transmit  
18           broadband signals capable of speeds at least 10 megabits per  
19           second of download speed and one megabit per second of upload  
20           speed to end user locations in rural areas purchased,  
21           constructed, or installed for use in Alabama after December  
22           31, 2016.

23           (2) RURAL AREAS. An area not in a city or town that  
24           has a population of more than 25,000 inhabitants, according to  
25           the most recent decennial Census of the United States.

26           (b) Notwithstanding any other provision of this  
27           chapter, and subject to the limitations of this section, for

1 all tax years beginning after December 31, 2016, any entity  
2 operating qualified broadband network facilities for the  
3 direct provision by the entity of broadband services to  
4 Alabama consumers shall be allowed the following tax credits  
5 or exemptions:

6 (1) A nonrefundable, transferable credit against  
7 state income tax liability imposed under this chapter, equal  
8 to 10 percent of the new investment by the entity in qualified  
9 broadband network facilities. For purposes of this section, an  
10 entity's new investment shall include, but not be limited to,  
11 a. All funds expended for the purchase, construction, or  
12 installation of qualified broadband network facilities through  
13 grants, borrowings, gifts, contributions, capital liquidity,  
14 investments obtained from third party investors or otherwise;  
15 and b. The present value of the minimum lease payments under  
16 all real or personal property leases.

17 (2) An exemption from the state portion of ad  
18 valorem taxation under Chapter 21 of this chapter, and any  
19 other applicable provision of this title for any qualified  
20 broadband network facilities for a period of 10 years from the  
21 date the facilities are placed into service.

22 (3) An exemption for any qualified broadband network  
23 facilities from all sales and use tax levied, assessed, or  
24 payable under Chapter 23 of this title; provided there shall  
25 be no exemption of local sales and use taxes except as  
26 provided in subdivision (4).

1           (4) An exemption from the county or municipal  
2 portion of ad valorem taxation under Chapter 21 of this title  
3 and any county or municipal sales and use taxes shall be  
4 submitted to the local governing body and shall be effective  
5 unless disapproved by resolution of the respective local  
6 governing body within 60 days of the date a written request  
7 for an exemption is received by the local governing body.

8           (5) The tax credits and exemptions set forth in  
9 subdivisions (1), (2), and (4) shall only be applied for by  
10 the entity operating the qualified broadband network  
11 facilities, its parent company, or its majority-owned  
12 subsidiary, hereinafter referred to as the "operator".  
13 Contractors, vendors, and similar service providers who help  
14 build, develop, and install the qualified broadband network  
15 facility shall not have the right to apply for the tax credits  
16 or exemptions; provided, however, that an operator may obtain  
17 a refund of any sales or use taxes remitted, paid, or  
18 otherwise reimbursed by the operator to a service provider for  
19 qualified broadband network facilities and ultimately remitted  
20 by the service provider to state and local government, in the  
21 same manner and to the same extent as if the taxes had been  
22 paid directly by the operator.

23           (c) (1) Prior to claiming a credit or exemption under  
24 this section, an operator shall submit to the Department of  
25 Agriculture and Industries information adequate to prove that  
26 the entity is entitled to a credit or exemption provided by  
27 this section for prior or future periods.

1           (2) An operator seeking recognition of a credit or  
2 exemption provided by this section, following its investment  
3 in qualified broadband network facilities, shall submit the  
4 required information to the Department of Agriculture and  
5 Industries within 12 months of completion of the project or  
6 phase of the project covered by the submission.

7           (3) Following any necessary examination, the  
8 Department of Agriculture and Industries may issue a  
9 certification and deliver that certification to the Department  
10 of Revenue and any local governing body that has granted an  
11 exemption pursuant to subdivision (4) of subsection (b), along  
12 with sending a copy of the certification to the operator  
13 seeking the exemption or credit.

14           (4) Upon receiving this certification from the  
15 Department of Agriculture and Industries, the Department of  
16 Revenue and other state taxing authorities shall allow and  
17 recognize the tax credit and any exemptions provided in this  
18 section.

19           (5) Any local governing body that has authorized an  
20 exemption pursuant to subdivision (4) of subsection (b) shall  
21 allow and recognize any authorized exemptions upon receipt of  
22 this certification.

23           (d) Property exempt from ad valorem tax under this  
24 section shall be listed separately on any property tax return  
25 filed under Chapter 21 of this title, and any other applicable  
26 provision of this title.

1           (e) Equipment vendors and other government entities  
2 shall rely on a copy of the certifications provided by the  
3 Department of Agriculture and Industries for purposes of  
4 recognizing any tax credit or exemption provided in this  
5 section, and operators obtaining a certification from the  
6 Department of Agriculture and Industries may obtain a refund  
7 of any state sales and use or state ad valorem taxes paid for  
8 qualified broadband network facilities covered by the  
9 certification by filing a direct petition for refund that  
10 shall otherwise be subject to the procedures and limitations,  
11 as applicable, in Section 40-2A-7.

12           (f) The Department of Agriculture and Industries and  
13 the Department of Revenue shall develop forms and rules  
14 consistent with this section, which may not delay the  
15 effectiveness of the credits or exemptions authorized by this  
16 section.

17           (g) (1) The nonrefundable, transferable income tax  
18 credit provided by this section, together with any credits  
19 carried forward in any one taxable year, may not exceed the  
20 lesser of the amount of income tax due under the Code of  
21 Alabama 1975, after allowance for all other credits permitted  
22 by Article 19 of this chapter, or one of the following: (1)  
23 Seven hundred fifty thousand dollars (\$750,000) per taxpayer  
24 if the qualified broadband network facility is capable of  
25 transmitting broadband signals at speeds of at least 10  
26 megabits per second of download speed and one megabit per  
27 second of upload speed. (2) One million four hundred thousand

1 dollars (\$1,400,000) per taxpayer if the qualified broadband  
2 network facility is capable of transmitting broadband signals  
3 at speeds of at least 25 megabits per second of download speed  
4 and three megabits per second of upload speed.

5 (2) The total income tax credits granted in any tax  
6 year may not exceed twenty million dollars (\$20,000,000).

7 (h) If the nonrefundable, transferable income tax  
8 credit provided by this section exceeds the limitation under  
9 subsection (g), the excess amount may be carried forward for a  
10 period that does not exceed the next 19 taxable years.

11 (i) (1) Any income tax credit granted pursuant to  
12 this section to an operator that is a partnership or limited  
13 liability company shall be passed through to the partners,  
14 members, or owners, including any not-for-profit private  
15 entity that is a partner, member, or owner, respectively, on a  
16 pro rata basis or pursuant to an executed agreement among the  
17 partners, members, or owners documenting an alternate  
18 distribution method, without regard to their sharing of other  
19 tax or economic attributes of the entity.

20 (2) The tax credit certificate shall contain a  
21 section to be completed by the operator that provides the  
22 percentage or amount of credit that will be allocated to each  
23 partner, member, or owner and the completed tax credit  
24 certificate may be provided to the Department of Revenue to  
25 transfer all or any portion of the tax credits passed through  
26 to the partner, member, or owner in accordance with this  
27 subsection.



1           (j) (1) Except as provided in subdivision (2), all or  
2 any portion of the income tax credits under this section shall  
3 be transferable and assignable, subject to any transfer notice  
4 and verification requirements to be determined by the  
5 Department of Revenue, regardless of whether the transferee is  
6 a provider of broadband service, without the requirement of  
7 transferring any ownership interest in the qualified broadband  
8 network facilities or any interest in the operator which  
9 originally qualified for the credits.

10           (2) Once a credit is transferred, only the  
11 transferee may utilize the credit and the credit cannot be  
12 transferred again.

13           (3) A transferee of the tax credit may use the  
14 amount of tax credits transferred to offset any state tax due  
15 under this chapter.

16           (k) (1) The Department of Revenue shall adopt a  
17 transfer statement form to be filed by the operator with the  
18 Department of Revenue prior to the proposed transfer of any  
19 credit issued under this chapter.

20           (2) The transfer statement form shall include the  
21 name and federal taxpayer identification number of the  
22 operator and each transferee listed therein, along with the  
23 amount of the tax credit to be transferred to each transferee  
24 listed on the form.

25           (3) The transfer statement form shall also contain  
26 any other information as the Department of Revenue may from  
27 time to time reasonably require.

1           (1) For each transfer, the operator shall file with  
2 the Department of Revenue all of the following:

3           (1) A completed transfer statement form.

4           (2) A copy of the certification issued by the  
5 Department of Agriculture and Industries documenting the  
6 amount of tax credits which the operator intends to transfer.

7           (3) A copy of the proposed written transfer  
8 agreement.

9           (4) A transfer fee payable to the Department of  
10 Revenue in the amount of one thousand dollars (\$1,000) per  
11 transferee listed on the transfer statement form.

12           (m) (1) The operator shall file with the Department  
13 of Revenue a fully executed copy of the written transfer  
14 agreement it holds with each transferee within 30 days after  
15 the completed transfer.

16           (2) Filing of the fully executed copy of the written  
17 transfer agreement with the Department of Revenue shall  
18 perfect the transfer with respect to the transferee.

19           (n) (1) The Department of Revenue shall issue a tax  
20 credit certificate to each transferee listed in the agreement  
21 in the amount of the tax credit so transferred within 30 days  
22 after the receipt by the Department of Revenue of the fully  
23 executed written transfer agreement.

24           (2) The tax credit certificate shall be used by the  
25 transferee in claiming the income tax credit pursuant to this  
26 section.

1 (o) The Department of Revenue may adopt additional  
2 rules as are necessary to permit verification of the ownership  
3 of the tax credits but may not adopt any rules which unduly  
4 restrict or hinder the transfer of the tax credits.

5 Section 4. Act 2016-102, 2016 Regular Session now  
6 appearing as Section 40-18-416, Code of Alabama 1975, is  
7 amended to read as follows:

8 "§40-18-416.

9 "(a) This All provisions of this article, except for  
10 Section 40-18-415.1, shall be repealed following the close of  
11 fiscal year 2020, but the repeal shall not cause a reduction  
12 or suspension of any credits awarded for fiscal year 2020 or  
13 for prior years during which the Growing Alabama Credit was in  
14 effect.

15 "(b) Section 40-18-415.1 shall be repealed following  
16 the close of fiscal year 2025, but the repeal shall not cause  
17 a reduction, suspension, or early termination of any credits  
18 or exemptions authorized under the section resulting from  
19 investment occurring in fiscal year 2025 or prior years during  
20 which the laws creating those credits or exemptions were in  
21 effect, including, without limitation, the carry forward of  
22 income tax credits pursuant to subsection (h) of Section  
23 40-18-415.1."

24 Section 5. This act shall become effective  
25 immediately following its passage and approval by the  
26 Governor, or its otherwise becoming a law.