SB215

210528-2

By Senator Marsh

RFD: Tourism

First Read: 09-FEB-21
A BILL
TO BE ENTITLED
AN ACT

Relating to broadband; to create the Alabama Digital Expansion Authority; to provide for the membership and duties of the authority; to provide for the appointment of a director and employees of the authority; to create the Connect Alabama Fund for the deposit of appropriations, gifts, grants, and other funds; to create the Connect Alabama Advisory Board; to provide for its members and duties; to provide that the authority is exempt from competitive bid laws; to require certain reports to the Legislature and the public; to provide general rulemaking authority; and to create the Alabama University Research Alliance; to provide for its members and duties; to create the Alabama Digital Finance Corporation; and to provide for its members and duties.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Connect Alabama Act of 2021.
Section 2. For the purposes of this act, the following terms shall have the following meanings:

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

(2) MIDDLE MILE PROJECT. A broadband infrastructure project that does not provide broadband service to end users or to end-user devices.

(3) MINIMUM SERVICE THRESHOLD. A connection to the Internet that provides capacity for transmission at an average speed per customer necessary to meet the definition of advanced telecommunications capability for fixed broadband services as set by the Federal Communications Commission.

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

(5) UNSERVED AREA. Any area that is determined by the authority to not have at least one provider of terrestrial broadband service that offers a connection to the Internet at the minimum service threshold or higher for a given application or use case as determined by the authority.

(6) UNSERVED RURAL AREA. Any area meeting the definition of both a rural area and unserved area.

Section 3. (a) The Alabama Digital Expansion Authority is created as a state agency to oversee the
expansion and availability of high-speed broadband services throughout the state. The authority shall consist of the following members:

(1) The Governor, or his or her designee.

(2) One member who is working or employed in the private sector, appointed by the President Pro Tempore of the Senate, subject to confirmation of the Senate.

(3) One member who is working or employed in the private sector, appointed by the Speaker of the House of Representatives, subject to confirmation of the Senate.

(4) One member who is working or employed in the private sector, appointed by the Governor, subject to confirmation of the Senate.

(5) One member who is working or employed in the private sector, appointed by the Lieutenant Governor, subject to confirmation of the Senate.

(6) The Secretary of the Department of Commerce.

(7) The Director of the Alabama Department of Economic and Community Affairs.

(8) The Secretary of the Office of Information Technology.

(9) The Director of Finance, who shall serve as a nonvoting member.

(b) The appointing authorities shall coordinate their appointments so that diversity of gender, race, and geographical areas is reflective of the makeup of this state.
(c) The Governor shall call the first meeting of the authority not later than 30 days from the effective date of this act. At the first meeting, the members of the authority shall elect a chair and vice chair. Meetings of the authority shall be called by the chair or by a majority of its members.

(d) Members of the authority shall serve without compensation but shall be reimbursed for per diem and travel expenses at the same rate and under the same circumstances as are payable by law to state employees for each day they attend business of the authority.

(e) The appointed members of the authority shall serve for a term of three years and may be reappointed for an unlimited number of terms. Following the expiration of their terms, members may continue to serve on the authority until a replacement is appointed.

(f) For any appointment that is subject to confirmation by the Senate but made at a time when the Senate is not in session, the appointment shall be effective immediately, and the member shall serve until the Senate acts on the appointment as provided in this subsection. Any appointment made while the Senate is not in session shall be submitted to the Senate not later than the third legislative day following the reconvening of the Legislature. In the event the Senate fails or refuses to act on the appointment, the person whose name was submitted shall continue to serve until action is taken on the appointment by the Senate.
Members of the authority or any committee established by the authority may participate in a meeting of the authority or committee in person, by means of telephone conference, video conference, or other similar communications equipment so that all individuals participating in the meeting may hear each other at the same time. Participation by any such means shall constitute presence in person at a meeting for all purposes, including for purposes of establishing a quorum, and the affirmative vote of a majority of the members then in office shall be necessary for any action of the authority.

Section 4. (a) The Alabama Digital Expansion Authority shall appoint a director of the authority. The director shall have no financial interest in any broadband or related business or enterprise which would conflict or be inconsistent with his or her duties as director.

(b) The duties of the director shall include the following:

(1) Exercise duties as the chief executive of the authority and exercise, consistent with this act and other applicable laws, all the powers, authority, and duties vested by this act and any other applicable law providing for the operation of the authority.

(2) Employ, with the advice and consent of the members of the authority, all individuals necessary for the efficient operation of the authority, set the salaries of the
employees, and be responsible for the efficient discharge of
the employees' duties.

(3) Establish an office for the authority within the
state, if the authority deems it necessary to accomplish and
effectuate the purposes of this act.

Section 5. (a) There is created the Connect Alabama
Advisory Board, which shall provide information and make
recommendations to the Alabama Digital Expansion Authority
regarding the implementation and administration of the Connect
Alabama Program.

(b) The advisory board shall be notified of all
proposals presented to and discussed by the authority and of
any actions taken by the authority.

(c)(1) The advisory board shall consist of the
following members:

a. One member appointed by the Governor who has
expertise in telecommunications services.

b. One member appointed by the Governor who has
expertise in broadband services.

c. One member appointed by the Governor who has
expertise in municipal infrastructure.

d. One member appointed by the Governor who has
expertise in county infrastructure.

e. One member appointed by the Governor who has
expertise in private sector infrastructure.

f. One member appointed by the Governor who has
expertise in higher education information systems.
g. One member appointed by the Governor who has expertise in secondary education information systems.

h. One member appointed by the Governor who has expertise in community college information systems.

i. One member appointed by the Governor who has expertise in health care information systems.

j. One member appointed by the Governor who has expertise in commercial networks and data centers.

k. One member appointed by the Governor who has expertise in rural community issues.

l. One member appointed by the Governor who has expertise regarding diversity and inclusion in technology and access to technology.

m. One member appointed by the Governor who has expertise and experience in the provision of broadband services in rural portions of the state.

n. The Director of the Alabama State Library Service, or his or her designee.

o. The Chair of the House Ways and Means General Fund Committee.

p. The Chair of the House Ways and Means Education Committee.

q. The Chair of the Senate Finance and Taxation General Fund Committee.

r. The Chair of the Senate Finance and Taxation Education Committee.
s. The State Superintendent of Education, or his or her designee.

t. One member appointed by the Secretary of Commerce who has expertise in telecommunications services.

u. One member appointed by the Secretary of Commerce who has expertise in broadband services.

v. One member appointed by the Director of the Alabama Department of Economic and Community Affairs.

w. One member appointed by the Secretary of the Office of Information Technology.

x. One member appointed by the Chief Executive Officer of the Alabama Supercomputer Authority.

(2) The appointed members of the advisory board shall serve at the pleasure of the appointing authority.

(d) All appointing authorities shall coordinate their appointments so that diversity of gender, race, and geographical areas is reflective of the makeup of this state.

(e) The advisory board shall meet as often as necessary, but at least annually, to formulate recommendations to the authority to implement and administer the Connect Alabama Program, including identification of any further statutory changes necessary to promote the availability and expansion of high-speed broadband services.

(f) Members of the advisory board may participate in a meeting of the advisory board in person, by means of telephone conference, video conference, or other similar communications equipment so that all individuals participating
in the meeting may hear each other at the same time.
Participation by any such means shall constitute presence in
person at a meeting for all purposes, including for purposes
of establishing a quorum, and the affirmative vote of a
majority of the members in attendance shall be necessary for
any action of the advisory board.

Section 6. The Alabama Digital Expansion Authority
shall have all of the following powers and duties:

(1) To promote the expansion and availability of
high-speed broadband networks, services, and technologies
throughout the state, including rural, underserved, and
unserved areas of the state. Subject to the limitations of
this act, the authority shall adopt parameters, which may
include project-specific or category-specific parameters, for
determining which areas of the state are deemed rural,
underserved, or unserved for purposes of this act.

(2) To develop and begin executing a Statewide
Connectivity Plan, within one year of the effective date of
this act, to facilitate the expansion and availability of
high-speed broadband networks, services, and technologies
throughout the state, leveraging and using existing
infrastructure where consistent with these parameters and
including a timeline for implementation of the plan. The plan
shall include authorization and funding for the following
objectives, which shall be funded and generally implemented in
the following phases:
a. The development and expansion of a secure, reliable, and robust, multi-purpose, long-haul and middle mile projects for fiber network throughout the state, which shall be established in the most cost effective and efficient manner for the state using existing, available infrastructure, and in consultation with broadband service providers in the state, where consistent with these parameters. The fiber network shall not be owned by the state or the authority.

b. Projects for providing last-mile infrastructure and lit services for specific applications and use cases that are determined by the authority to be a priority supported by the network or portions of the network funded under the statewide connectivity plan.

c. Ongoing upgrades to networks, technological equipment, and end user devices as needed to meet the evolving and increasing connectivity needs of applicants to the authority on a project-specific basis.

(3) To implement the Statewide Connectivity Plan and to enter into contracts and leases for purposes consistent with the priorities of the plan. In developing the Statewide Connectivity Plan, the authority shall seek input from incumbent Internet service providers, other service providers, and other owners and operators of infrastructure involved in providing high-speed broadband service. The authority shall also review and address proposals recommended by the Alabama University Research Alliance (AURA) and incorporate the proposals into the Statewide Connectivity Plan if the
authority determines that they are in the best interest of the
state and the purposes of this act.

(4) To establish and administer the Connect Alabama
Program, in coordination with the Alabama Broadband
Accessibility Act, Section 41-23-210, et seq., Code of Alabama
1975, where applicable, consisting of a broadband
accessibility grant program for the purpose of promoting the
deployment and adoption of high-speed broadband Internet
networks, services, and technologies throughout the state,
including rural, underserved, and unserved areas of the state
consistent with the requirements of this act. For two years
following the date funding is first made available, no less
than 70% of the funding appropriated for the Connect Alabama
Fund or other broadband infrastructure expansion under this
Section shall be used for grants for the extension of
last-mile infrastructure in unserved rural areas in a manner
consistent with the criteria of the Alabama Broadband
Accessibility Act. After this time, funds appropriated to the
Authority shall be expended according to the goals of the
program.

(5) To adopt rules and policies, within 90 days of
establishing the Connect Alabama Program, to administer the
program and to begin to accept applications for grants,
including any rules necessary to meet the future needs of the
grant program.
(6) To develop strategies and support efforts to attract and leverage grant funds, federal resources, and private investment in furtherance of this act.

(7) To administer the distribution of funds, grants, loans, loan guarantees, or other funds and resources received by the authority.

(8) To ensure that grant funds awarded under this act are used for the purposes specified in this act.

(9) To solicit, accept, and receive funds, gifts, grants, property, labor, or other monetary or in-kind contributions of any type or from any source, including, but not limited to, federal and state grants, loans, and loan guarantees.

(10) To promote and encourage private investments and applications for grants available under the Connect Alabama Program.

(11) To have perpetual existence and to establish rules relating to the governance of the authority and advisory board and the use of authority funds and services not otherwise specified in this act.

(12) To perform any other actions necessary or convenient for the implementation and administration of this act.

Section 7. (a) Members of the Alabama Digital Expansion Authority, the director of the authority, and employees of the authority shall be subject to Chapter 25 of

(b) The authority does not have statewide jurisdiction for purposes of Section 36-25-14, Code of Alabama 1975.

(c) Members of the authority shall disclose to the director any financial interest the member has in any broadband or related business enterprise that could conflict or be inconsistent with his or her duties as a member so that the director can ensure that the member does not inadvertently engage in any discussions or votes that would violate the applicable provisions of Chapter 25 of Title 36, Code of Alabama 1975.

Section 8. Meetings of the authority are subject to the requirements of Chapter 25A of Title 36, Code of Alabama 1975. Meetings of the advisory board are subject to the requirements of Chapter 25A of Title 36, Code of Alabama 1975.

Section 9. The Alabama Digital Expansion Authority may enter into contracts for any and all purposes that are in furtherance of this act or consistent with these purposes. The authority shall comply with any competitive bid requirements in Article 2, Chapter 16, Title 41, Code of Alabama 1975, and Chapter 2 of Title 39, Code of Alabama 1975, and any requirements relating to the procurement of professional service providers in Section 41-16-72, Code of Alabama 1975.

Section 10. (a) There is created within the State Treasury the Connect Alabama Fund to be administered by the
authority. Appropriations by the Legislature, gifts, grants, and other donations from any source that are received by the authority for the Connect Alabama Program shall be deposited into the fund to be used by the authority for the implementation and administration of the Connect Alabama Program.

(b) Any funds appropriated to the authority for the Connect Alabama Program that are unspent at the end of a fiscal year shall be carried over for use by the program in the next fiscal year. Any interest earned from these funds shall be credited to the authority.

Section 11. (a) The Alabama University Research Alliance (AURA) shall be established as a subdivision of the Alabama Digital Expansion Authority for the purpose of assisting the state's universities, university health care systems, research institutions, and the Alabama Community College Development System in the development of cooperative ventures of innovative technological significance to advance higher education, research, health care, and economic development within the state.

(b) The actions, activities, and funding decisions of AURA, the AURA board, and the AURA executive committee shall be overseen by the authority.

(c) The AURA board shall be comprised of one representative from each public four-year college or university located in the state, and a representative from the Alabama Community College System. Additional membership shall
be given to one representative from each of the university
health care systems in the state. AURA board membership shall
be designated by the president or chief executive officer of
such institution.

(d) The AURA board membership may also be granted to
any state, federal, or private entity conducting research in
the state including, but not limited to, the Southern Research
Institute, the Hudson-Alpha Institute for Biotechnology, the
Marine and Environmental Sciences Consortium, or any private
college or university. Additional members may be added upon a
majority vote of the current AURA membership and approval by
the authority.

(e) The AURA shall establish an executive committee
composed of the following members:

(1) Six permanent members representing each of the
following:

a. Auburn University.
b. The University of Alabama.
c. The University of Alabama at Birmingham.
d. The University of Alabama in Huntsville.
e. The University of Alabama at Birmingham Health
   System.
f. The Alabama Community College System.

(2) Three members elected annually by AURA board
membership from among members of the AURA board other than
those listed in subdivision (1). At least one of the three
members elected annually shall be a representative of a historically black college and university.

(f) The executive committee, with the approval of a majority of its membership, may act on behalf of the AURA, consistent with the budgetary oversight of the authority.

(g) The AURA shall annually elect one executive committee member to serve as chair and one executive committee member to serve as vice chair. The chair and vice chair shall be either a chief research officer or a chief information officer from a research university.

(h) Subject to approval by the authority, AURA may establish rules relating to its governance and operations and to the use of AURA funds and services not otherwise specified in this section.

(i) The AURA may assist its members in the development of cooperative ventures of innovative technological significance to advance higher education, research, and health care through the development of a university research network.

(j) The AURA shall have all of the following powers and duties:

(1) To sue and be sued on contract and tort and to complain and defend in all courts of law and equity.

(2) To establish and maintain one or more offices within the state.

(3) To determine the locale and character of any project pursued by AURA in the accomplishment of its purposes.
(4) To solicit, accept, and receive funding from the authority or from federal, state, and private gifts, grants, and loans in procuring the funding necessary for the accomplishment of the purposes of the AURA, consistent with the budgetary oversight of the authority.

(5) To solicit, accept, and receive from any source loans, contributions, gifts, or grants for or in aid of the purposes of AURA or any portion thereof in either money, property, labor, or other things of value and, when necessary or convenient, to use those loans, contributions, gifts, or grants only for the purposes for which they were loaned, contributed, given, or granted, consistent with the budgetary oversight of the authority.

(6) To contract with or employ, or both, professional service providers, industry experts, technicians, superintendents, managers, and other employees and agents as may be determined necessary and to fix their compensation.

(7) To acquire, construct, own, reconstruct, remodel, maintain, manage, enlarge, or alter property for the development of a university research network and for other purposes consistent with the statewide connectivity plan, the authority's priorities, this act, and other applicable laws.

(8) To exercise any power usually possessed by private corporations performing similar functions, provided the exercise of power is not in conflict with the constitution and laws of the state.
(9) To do all things necessary or convenient to carry out the powers expressly provided by this section.

(k)(1) All income, obligations, lease agreements, and mortgages of AURA, all conveyances by or to AURA, and all lien notices or other filings with respect to the property of AURA and the transfer thereof shall be exempt from any and all taxation in the state.

(2) The purchase, sale, or use of property by AURA shall be exempt from all sales, use, and license taxes levied by the state and all political subdivisions of the state.

(3) All property of AURA shall be exempt from state and local ad valorem property taxation.

(4) No license or excise tax may be imposed by any authority with respect to the privilege of engaging in any of the activities in this section.

(l) The provisions of this section are supplemental to, additional to, and cumulative of powers conferred by any other law and may not be regarded as being in derogation of any existing powers.

(m) The AURA is subject to Chapter 25A of Title 36, Code of Alabama 1975.

Section 12. The Alabama Digital Expansion Authority and the Alabama University Research Alliance may not duplicate high speed broadband services provided by the Alabama Supercomputer Authority and the Alabama Research and Education Network to public local boards of education, public K-12 schools, and public libraries that are not associated with
institutions of higher education, unless the Alabama Supercomputer Authority does not meet either of the following:

   (1) The minimum service threshold and other requirements relating to the provision of these services as provided in this act.

   (2) The service quality requested by a public local board of education, public K-12 school, or a public library that is not associated with an institution of higher education.

Section 13. (a) The Alabama Digital Expansion Finance Corporation is hereby created as a public corporation of the State of Alabama. The corporation shall have perpetual existence, subject to the provisions for dissolution of the corporation provided in this act. The corporation shall consist of the following members:

   (1) The Governor, who shall be the chair.

   (2) The Secretary of the Department of Commerce, who shall be the vice chair.

   (3) The Director of Finance, who shall be the secretary.

   (4) The Speaker of the House of Representatives.

   (5) The President Pro Tempore of the Senate.

   (6) The Lieutenant Governor.

   (b) Attendance by any three corporation members shall constitute a quorum to authorize the transaction of business.
(c) For purposes of this section, the following words shall have the following meanings:

(1) BONDS. Includes bonds, notes, or other evidences of indebtedness, except as otherwise provided in this act.

(2) CORPORATION. The Alabama Digital Expansion Finance Corporation.

(3) ELIGIBLE PROJECT. Includes any project that the corporation determines would expand, increase, or improve the availability of high-speed broadband networks, services, or technologies throughout the state and which qualify for funding under the statewide connectivity plan and its priorities as set forth by the authority in Section 6(2) and that further the development of the university research network as set forth in Section 10(j)(7).

(4) PERMITTED INVESTMENTS. Includes any of the following:

a. Certificates of deposit, savings accounts, deposit accounts, or money market deposit accounts that are any of the following:

   2. Fully insured by the FDIC.
   3. Made with a bank whose unsecured, long-term obligations are rated by at least one nationally recognized securities rating agency in one of the three highest rating categories assigned by that rating agency.
b. Direct obligations of, or obligations the full and timely payment of which is guaranteed by, the United States of America, including unit investment trusts and mutual funds that invest solely in such obligations.

c. Bonds, debentures, notes, pass through securities, or other obligations issued or guaranteed by any federal agency or corporation which has been or may hereafter be created by or pursuant to an act of the Congress of the United States of America as an agency or instrumentality thereof if such obligations are either of the following:

1. Backed by the full faith and credit of the United States of America.

2. Rated by at least one nationally recognized securities rating agency in one of the three highest rating categories assigned by the rating agency.

d. Commercial paper which is rated not less than "P-1" by Moody's Investor Service or "A-1+" by Standard and Poor's at the time of purchase.

e. Money market funds rated by at least one nationally recognized securities rating agency in one of the three highest rating categories assigned by that rating agency.

f. Bonds, warrants, notes, or other obligations issued by any state, county, or municipality that are rated by at least one nationally recognized securities rating agency in one of the three highest rating categories assigned by that rating agency.
g. Investment agreements, including, without limitation, guaranteed investment contracts, repurchase agreements, and forward purchase agreements, provided that all of the following are satisfied:

1. Any securities purchased or held pursuant to such agreement are otherwise permitted investments.

2. The counterparty's long-term debt obligations are rated by at least one nationally recognized securities rating agency in one of the three highest rating categories assigned by that rating agency.

3. The securities, if purchased, are owned by the corporation or a paying agent or trustee for any of the corporation's obligations and are held by the corporation, the paying agent, the trustee, or a third-party custodian acceptable to the corporation or, if held as collateral, are held by the corporation, the paying agent, the trustee, or a third-party custodian acceptable to the corporation with a perfected first security interest in such collateral.

h. Investment or cash management agreements with a commercial bank whose senior long-term debt obligations are, at the time of the acquisition of any such investment or cash management agreement for the account of the corporation, rated by at least one nationally recognized securities rating agency in one of the three highest rating categories assigned by that rating agency, or with a commercial bank that is owned or controlled by a bank holding company whose senior long-term debt obligations are, at the time of the acquisition of any
such investment or cash management agreement for the account
of the corporation, rated by at least one nationally
recognized securities rating agency in one of the three
highest rating categories assigned by that rating agency.

(d) The corporation shall have all power necessary,
useful, or appropriate to fund, operate, and administer the
corporation, and to perform its other functions including, but
not limited to, the following powers:

(1) Adopt, amend, and repeal bylaws not inconsistent
with this act for the administration of the corporation's
affairs and the implementation of its functions.

(2) Sue and be sued.

(3) Have a seal and alter it at pleasure, although
the failure to affix the seal does not affect the validity of
an instrument executed on behalf of the corporation.

(4) Make grants or loans or provide other financial
assistance to any person or entity, public or private, to fund
the cost of eligible projects.

(5) Enter into contracts, arrangements, and
agreements with any persons or entities and execute and
deliver all contracts, agreements, and other instruments
necessary or convenient to the exercise of the powers granted
in this act.

(6) Enter into agreements with a department, agency,
or instrumentality of the United States or of this state or
another state for the purpose of planning and providing for
any eligible project.
(7) Acquire by purchase, lease, donation, or other lawful means and sell, convey, pledge, lease, exchange, transfer, and dispose of all or any part of its properties and assets of every kind and character or any interest in it to further the public purpose of the corporation.

(8) Collect or authorize the paying agent or trustee under any resolution or trust indenture, as appropriate, securing any bonds to collect amounts due under any loan or funding obligations owned by the corporation, including taking the action required to obtain payment of any sums in default.

(9) Borrow money through the issuance of bonds and other forms of indebtedness as provided in this act.

(10) Expend funds to obtain accounting, management, legal, financial consulting, technical, and other professional services necessary to the operations of the corporation.

(11) Expend funds credited to the corporation as it deems necessary for the costs of administering the operations of the corporation.

(12) Apply for, receive, and accept from any source, aid, grants, and contributions of money, property, labor, or other things of value to be used to carry out the purposes of this act subject to the conditions upon which the aid, grants, or contributions are made.

(13) Appoint and employ attorneys, accountants, financial advisors, underwriters, trustees, depositaries, registrars, fiscal agents, and other advisors, consultants,
agents, and independent contractors as may be necessary or desirable.

(14) Do all other things necessary or convenient to carry out the purposes and powers conferred by this act.

(e) The corporation shall comply with any competitive bid requirements in Article 2, Chapter 16, Title 41, Code of Alabama 1975, and Chapter 2, Title 39, Code of Alabama 1975, and any requirements relating to the procurement of professional service providers in Section 41-16-72, Code of Alabama 1975.

(f) The corporation may provide grants, loans, and other financial assistance to any person or entity to pay for all or part of the cost of an eligible project. The corporation may require the recipient of any grant, loan, or other financial assistance to enter into a grant agreement or financing agreement in connection with its grant, loan obligation, or other financial assistance. The corporation shall determine the form and content of any grant agreements, financing agreements, and loan obligations, including the term and rate or rates of interest on a financing agreement.

(g) The corporation is performing an essential governmental function in the exercise of the powers conferred upon it and is not required to pay any taxes or assessments, whether state or local, upon its property or upon its operations or the income from them, or taxes or assessments upon property or loan obligations acquired or used by the corporation or upon the income from them.
(h) Neither the members nor any officer, employee, or committee of the corporation acting on behalf of it, while acting within the scope of authority granted by this act, is subject to any liability resulting from carrying out any of the powers given in this act as provided in Section 36-1-12, Code of Alabama 1975.

(i) Money in funds or accounts of the corporation may be invested in permitted investments.

(j)(1) Whenever it shall become necessary that monies be raised for eligible projects, including monies to be used to refund any bonds then outstanding, the corporation may issue bonds in an aggregate principal amount not to exceed two hundred fifty million dollars ($250,000,000) in any fiscal year of the state, excluding bonds issued to refund other outstanding bonds of the corporation, as provided in this act.

(2) The corporation may pledge any of its revenues or funds, including, without limitation, revenues or funds appropriated to the corporation by the Legislature, to the payment of its bonds. Bonds may also be secured by a pledge of any loan obligation or funding agreement owned by the corporation, any grant, contribution, or guaranty from the United States, the state, or any corporation, association, institution, or person, any bond insurance, guarantees, letters of credit, or other forms of credit enhancement purchased or otherwise obtained by the corporation from any public or private entity, any other property or assets of the
corporation, or a pledge of any money, income, or revenue of
the corporation from any source.

(3) Bonds, other financial assistance, and other
obligations issued by the corporation shall not constitute an
obligation or debt of this state, or any of its political
subdivisions, but shall be limited obligations of the
corporation payable solely from the revenue, money, or
property of the corporation pledged by the corporation for
such purpose as provided in this act. Bonds may not be general
obligations of the corporation. Any bonds, other financial
assistance, or other obligations of the corporation issued do
not constitute an indebtedness of the state or any of its
political subdivisions within the meaning of any
constitutional or statutory limitation, and neither the full
faith and credit nor the taxing power of the state, or any of
its political subdivisions, is pledged to the payment thereof.
No member of the corporation or any person executing bonds,
other financial assistance, or other obligations of the
corporation is liable personally thereon by reason of their
issuance or execution. Each bond, other financial assistance,
and other obligation issued under this act shall contain on
its face a statement to the effect of the following:

a. The instrument is not a general obligation of the
corporation, but is a limited obligation of the corporation
payable solely from the revenue, money, or property of the
corporation pledged therefor.
b. The instrument is not an obligation or debt of the state, or any of its political subdivisions, and neither the full faith and credit nor the taxing power of the state, or any of its political subdivisions, is pledged to the payment of the instrument.

c. The corporation does not have taxing power.

(4) The bonds of the corporation must be authorized by a resolution of the corporation.

(5) The bonds shall bear the date and mature at the time which the resolution provides, except that no bond may mature more than 40 years from its date of issue.

(6) The bonds shall be in a form and shall be executed in a manner prescribed by the corporation. If any of the members or officers of the corporation cease to be members or officers before the delivery of any bonds signed by them, their signatures or authorized facsimile signatures are nevertheless valid and sufficient for all purposes as if they had remained in office until the delivery of the bonds. The bonds may be in the denominations, be executed in the manner, be payable in the medium of payment, be payable at the place and at the time, and be subject to redemption or repurchase and contain other provisions determined by the corporation prior to their issuance.

(7) The bonds may bear interest payable at a time and at a rate as determined by the corporation, including the determination by agents designated by the corporation under guidelines established by it.
(8) Bonds may be sold by the corporation at public or private sale at the price it determines and approves.

(9) Bonds may be secured by the provisions of a resolution or a trust indenture between the corporation and a paying agent or corporate trustee, as appropriate, which may be the State Treasurer or any bank having trust powers or any trust company doing business in this state. A resolution or trust indenture may contain provisions for protecting and enforcing the rights and remedies of the bondholders which are reasonable and proper, including covenants setting forth the duties of the corporation in relation to the exercise of its powers and the custody, safekeeping, and application of its money. The corporation may provide by the resolution or trust indenture for the payment of the proceeds of the bonds and all or any part of the revenues of the corporation to the paying agent or trustee under the resolution or trust indenture or to some other depository, and for the method of its disbursement with safeguards and restrictions prescribed by it.

(10) Any resolution or trust indenture pursuant to which bonds are issued may contain provisions which are part of the contract with the holders of the bonds and which include the following:

a. Pledging specific revenues of the corporation to secure the payment of the bonds.

b. Pledging specific assets of the corporation including, without limitation, loan obligations owned by it to secure the payment of the bonds.
c. The use and disposition of the gross income from, and payment of the principal of, and interest on loan obligations and funding agreements owned by the corporation.

d. The establishment of reserves, sinking funds, and other funds and accounts, and their regulation and disposition.

e. Limitations on the purposes to which the proceeds from the sale of the bonds may be applied, and limitations on pledging the proceeds to secure the payment of the bonds.

f. Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

g. The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds, if any, the holders of which must consent thereto, and the manner in which any consent may be given.

h. Vesting in a trustee property, rights, powers, and duties as the corporation may determine, limiting or abrogating the right of bondholders to appoint a trustee, and limiting the rights, powers, and duties of the trustee.

i. Defining the acts or omissions which constitute a default, the obligations or duties of the corporation to the holders of the bonds, and the rights and remedies of the holders of the bonds in the event of default.

j. Requiring the corporation or the trustee under the trust indenture to take any and all other action to obtain payment of all sums required to eliminate any default as to
any principal of and interest on loan obligations and funding
agreements owned by the corporation or held by a trustee,
which may be authorized by the laws of this state.

k. Any other matter relating to the terms of the
bonds or the security or protection of the holders of the
bonds which may be considered appropriate.

(11) Any pledge made by the corporation to secure
its obligations with respect to grants, bonds, or other
financial assistance is valid and binding from the time the
pledge is made. The revenue, money, or property pledged and
received by the corporation is immediately subject to the lien
of the pledge without any physical delivery or further act.
The lien of any pledge is valid and binding as against all
parties having claims of any kind in tort, contract, or
otherwise against the corporation, irrespective of whether the
parties have notice of the pledge.

(12) No recording or filing of the resolution
authorizing the grant, the issuance of bonds or other
financial assistance, the trust indenture or other financing
agreement securing the grant, bonds or other financial
assistance, or any other instrument including filings under
the Uniform Commercial Code is necessary to create or perfect
any pledge or security interest granted by the corporation to
secure any grants, bonds, or other financial assistance.

(13) Any bonds issued by the corporation, the
transfer of bonds, and the income from them, are free from
taxation and assessment of every kind by the state and by the
local governments and other political subdivisions of the
state.

(14) The bonds issued by the corporation are legal
investments in which all public officers or public bodies of
the state, its political subdivisions, all municipalities and
political subdivisions, all insurance companies and
associations, and other persons carrying on insurance
business, all banks, bankers, banking associations, trust
companies, savings banks, savings associations, including
savings and loan association investment companies, and other
persons carrying on a banking business, all administrators,
guardians, executors, trustees, and other fiduciaries, and all
other persons who are now or may be authorized in the future
to invest in bonds or other obligations of the state, may
invest funds in their control or belonging to them.

(15) The corporation shall be a nonprofit
corporation and no part of its net earnings remaining after
payment of its expenses shall inure to the benefit of any
individual, firm, or corporation, except that in the event its
members shall determine that sufficient provision has been
made for the full payment of the expenses, grants, bonds,
other financial assistance, and other obligations of the
corporation, then any net earnings of the corporation
thereafter accruing shall be paid to the state.

(16) At any time when no bonds, other financial
assistance, or other obligations of the corporation are
outstanding, the corporation may be dissolved upon the filing
with the Secretary of State of an application for dissolution, which shall be subscribed by each of the members of the corporation and which shall be sworn to by each member before an officer authorized to take acknowledgments to deeds. Upon the filing of the application for dissolution, the corporation shall cease and any property owned by it at the time of its dissolution shall pass to the state. The Secretary of State shall file and record the application for dissolution, in an appropriate book of record in his or her office, and shall make and issue, under the Great Seal of the State, a certificate stating that the corporation is dissolved and shall record the certificate with the application for dissolution.

Section 14. (a) Beginning one year from the effective date of this act, by January 31 of each year, the Alabama Digital Expansion Authority shall provide a report to the Legislature on the status of grants under the Connect Alabama Program and other activities of the authority.

(b) The authority shall publish the reports required under subsection (a) on a public website of the authority, if such a website exists.

Section 15. The Alabama Digital Expansion Authority may adopt rules for the implementation and administration of this act.

Section 16. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.
Read for the first time and referred to the Senate committee on Tourism.............................. Q9-FEB-21

Read for the second time and placed on the calendar 2 amendments.......................................... 10-FEB-21

Read for the third time and passed as amended .... Q3-MAR-21

Yeas 32
Nays 0

Patrick Harris,
Secretary.