

1 SB215
2 210528-2
3 By Senator Marsh
4 RFD: Tourism
5 First Read: 09-FEB-21

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to broadband; to create the Alabama Digital
12 Expansion Authority; to provide for the membership and duties
13 of the authority; to provide for the appointment of a director
14 and employees of the authority; to create the Connect Alabama
15 Fund for the deposit of appropriations, gifts, grants, and
16 other funds; to create the Connect Alabama Advisory Board; to
17 provide for its members and duties; to provide that the
18 authority is exempt from competitive bid laws; to require
19 certain reports to the Legislature and the public; to provide
20 general rulemaking authority; and to create the Alabama
21 University Research Alliance; to provide for its members and
22 duties; to create the Alabama Digital Finance Corporation; and
23 to provide for its members and duties.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. This act shall be known and may be cited
26 as the Connect Alabama Act of 2021.

1 Section 2. For the purposes of this act, the
2 following terms shall have the following meanings:

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

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

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

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

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

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

26 Section 3. (a) The Alabama Digital Expansion
27 Authority is created as a state agency to oversee the

1 expansion and availability of high-speed broadband services
2 throughout the state. The authority shall consist of the
3 following members:

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

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

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

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

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

17 (6) The Secretary of the Department of Commerce.

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

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

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

24 (b) The appointing authorities shall coordinate
25 their appointments so that diversity of gender, race, and
26 geographical areas is reflective of the makeup of this state.

1 (c) The Governor shall call the first meeting of the
2 authority not later than 30 days from the effective date of
3 this act. At the first meeting, the members of the authority
4 shall elect a chair and vice chair. Meetings of the authority
5 shall be called by the chair or by a majority of its members.

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

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

16 (f) For any appointment that is subject to
17 confirmation by the Senate but made at a time when the Senate
18 is not in session, the appointment shall be effective
19 immediately, and the member shall serve until the Senate acts
20 on the appointment as provided in this subsection. Any
21 appointment made while the Senate is not in session shall be
22 submitted to the Senate not later than the third legislative
23 day following the reconvening of the Legislature. In the event
24 the Senate fails or refuses to act on the appointment, the
25 person whose name was submitted shall continue to serve until
26 action is taken on the appointment by the Senate.

1 (g) Members of the authority or any committee
2 established by the authority may participate in a meeting of
3 the authority or committee in person, by means of telephone
4 conference, video conference, or other similar communications
5 equipment so that all individuals participating in the meeting
6 may hear each other at the same time. Participation by any
7 such means shall constitute presence in person at a meeting
8 for all purposes, including for purposes of establishing a
9 quorum, and the affirmative vote of a majority of the members
10 then in office shall be necessary for any action of the
11 authority.

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

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

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

24 (2) Employ, with the advice and consent of the
25 members of the authority, all individuals necessary for the
26 efficient operation of the authority, set the salaries of the

1 employees, and be responsible for the efficient discharge of
2 the employees' duties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 r. The Chair of the Senate Finance and Taxation
26 Education Committee.

1 s. The State Superintendent of Education, or his or
2 her designee.

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

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

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

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

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

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

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

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

24 (f) Members of the advisory board may participate in
25 a meeting of the advisory board in person, by means of
26 telephone conference, video conference, or other similar
27 communications equipment so that all individuals participating

1 in the meeting may hear each other at the same time.
2 Participation by any such means shall constitute presence in
3 person at a meeting for all purposes, including for purposes
4 of establishing a quorum, and the affirmative vote of a
5 majority of the members in attendance shall be necessary for
6 any action of the advisory board.

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

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

17 (2) To develop and begin executing a Statewide
18 Connectivity Plan, within one year of the effective date of
19 this act, to facilitate the expansion and availability of
20 high-speed broadband networks, services, and technologies
21 throughout the state, leveraging and using existing
22 infrastructure where consistent with these parameters and
23 including a timeline for implementation of the plan. The plan
24 shall include authorization and funding for the following
25 objectives, which shall be funded and generally implemented in
26 the following phases:

1 a. The development and expansion of a secure,
2 reliable, and robust, multi-purpose, long-haul and middle mile
3 projects for fiber network throughout the state, which shall
4 be established in the most cost effective and efficient manner
5 for the state using existing, available infrastructure, and in
6 consultation with broadband service providers in the state,
7 where consistent with these parameters. The fiber network
8 shall not be owned by the state or the authority.

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

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

18 (3) To implement the Statewide Connectivity Plan and
19 to enter into contracts and leases for purposes consistent
20 with the priorities of the plan. In developing the Statewide
21 Connectivity Plan, the authority shall seek input from
22 incumbent Internet service providers, other service providers,
23 and other owners and operators of infrastructure involved in
24 providing high-speed broadband service. The authority shall
25 also review and address proposals recommended by the Alabama
26 University Research Alliance (AURA) and incorporate the
27 proposals into the Statewide Connectivity Plan if the

1 authority determines that they are in the best interest of the
2 state and the purposes of this act.

3 (4) To establish and administer the Connect Alabama
4 Program, in coordination with the Alabama Broadband
5 Accessibility Act, Section 41-23-210, et seq., Code of Alabama
6 1975, where applicable, consisting of a broadband
7 accessibility grant program for the purpose of promoting the
8 deployment and adoption of high-speed broadband Internet
9 networks, services, and technologies throughout the state,
10 including rural, underserved, and unserved areas of the state
11 consistent with the requirements of this act. For two years
12 following the date funding is first made available, no less
13 than 70% of the funding appropriated for the Connect Alabama
14 Fund or other broadband infrastructure expansion under this
15 Section shall be used for grants for the extension of
16 last-mile infrastructure in unserved rural areas in a manner
17 consistent with the criteria of the Alabama Broadband
18 Accessibility Act. After this time, funds appropriated to the
19 Authority shall be expended according to the goals of the
20 program.

21 (5) To adopt rules and policies, within 90 days of
22 establishing the Connect Alabama Program, to administer the
23 program and to begin to accept applications for grants,
24 including any rules necessary to meet the future needs of the
25 grant program.

1 (6) To develop strategies and support efforts to
2 attract and leverage grant funds, federal resources, and
3 private investment in furtherance of this act.

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

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

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

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

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

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

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

1 Title 36, Code of Alabama 1975. Members of the advisory board
2 are subject to Chapter 25 of Title 36, Code of Alabama 1975.

3 (b) The authority does not have statewide
4 jurisdiction for purposes of Section 36-25-14, Code of Alabama
5 1975.

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

14 Section 8. Meetings of the authority are subject to
15 the requirements of Chapter 25A of Title 36, Code of Alabama
16 1975. Meetings of the advisory board are subject to the
17 requirements of Chapter 25A of Title 36, Code of Alabama 1975.

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

26 Section 10. (a) There is created within the State
27 Treasury the Connect Alabama Fund to be administered by the

1 authority. Appropriations by the Legislature, gifts, grants,
2 and other donations from any source that are received by the
3 authority for the Connect Alabama Program shall be deposited
4 into the fund to be used by the authority for the
5 implementation and administration of the Connect Alabama
6 Program.

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

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

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

24 (c) The AURA board shall be comprised of one
25 representative from each public four-year college or
26 university located in the state, and a representative from the
27 Alabama Community College System. Additional membership shall

1 be given to one representative from each of the university
2 health care systems in the state. AURA board membership shall
3 be designated by the president or chief executive officer of
4 such institution.

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

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

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

- 17 a. Auburn University.
- 18 b. The University of Alabama.
- 19 c. The University of Alabama at Birmingham.
- 20 d. The University of Alabama in Huntsville.
- 21 e. The University of Alabama at Birmingham Health
22 System.
- 23 f. The Alabama Community College System.

24 (2) Three members elected annually by AURA board
25 membership from among members of the AURA board other than
26 those listed in subdivision (1). At least one of the three

1 members elected annually shall be a representative of a
2 historically black college and university.

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

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

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

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

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

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

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

26 (3) To determine the locale and character of any
27 project pursued by AURA in the accomplishment of its purposes.

1 (4) To solicit, accept, and receive funding from the
2 authority or from federal, state, and private gifts, grants,
3 and loans in procuring the funding necessary for the
4 accomplishment of the purposes of the AURA, consistent with
5 the budgetary oversight of the authority.

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

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

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

23 (8) To exercise any power usually possessed by
24 private corporations performing similar functions, provided
25 the exercise of power is not in conflict with the constitution
26 and laws of the state.

1 (9) To do all things necessary or convenient to
2 carry out the powers expressly provided by this section.

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

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

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

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

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

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

22 Section 12. The Alabama Digital Expansion Authority
23 and the Alabama University Research Alliance may not duplicate
24 high speed broadband services provided by the Alabama
25 Supercomputer Authority and the Alabama Research and Education
26 Network to public local boards of education, public K-12
27 schools, and public libraries that are not associated with

1 institutions of higher education, unless the Alabama
2 Supercomputer Authority does not meet either of the following:

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

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

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

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

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

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

21 (4) The Speaker of the House of Representatives.

22 (5) The President Pro Tempore of the Senate.

23 (6) The Lieutenant Governor.

24 (b) Attendance by any three corporation members
25 shall constitute a quorum to authorize the transaction of
26 business.

1 (c) For purposes of this section, the following
2 words shall have the following meanings:

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

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

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

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

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

20 1. Secured as provided in Chapter 14A of Title 41,
21 Code of Alabama 1975.

22 2. Fully insured by the FDIC.

23 3. Made with a bank whose unsecured, long-term
24 obligations are rated by at least one nationally recognized
25 securities rating agency in one of the three highest rating
26 categories assigned by that rating agency.

1 b. Direct obligations of, or obligations the full
2 and timely payment of which is guaranteed by, the United
3 States of America, including unit investment trusts and mutual
4 funds that invest solely in such obligations.

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

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

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

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

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

23 f. Bonds, warrants, notes, or other obligations
24 issued by any state, county, or municipality that are rated by
25 at least one nationally recognized securities rating agency in
26 one of the three highest rating categories assigned by that
27 rating agency.

1 g. Investment agreements, including, without
2 limitation, guaranteed investment contracts, repurchase
3 agreements, and forward purchase agreements, provided that all
4 of the following are satisfied:

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

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

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

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

1 such investment or cash management agreement for the account
2 of the corporation, rated by at least one nationally
3 recognized securities rating agency in one of the three
4 highest rating categories assigned by that rating agency.

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

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

12 (2) Sue and be sued.

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

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

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

24 (6) Enter into agreements with a department, agency,
25 or instrumentality of the United States or of this state or
26 another state for the purpose of planning and providing for
27 any eligible project.

1 (7) Acquire by purchase, lease, donation, or other
2 lawful means and sell, convey, pledge, lease, exchange,
3 transfer, and dispose of all or any part of its properties and
4 assets of every kind and character or any interest in it to
5 further the public purpose of the corporation.

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

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

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

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

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

24 (13) Appoint and employ attorneys, accountants,
25 financial advisors, underwriters, trustees, depositories,
26 registrars, fiscal agents, and other advisors, consultants,

1 agents, and independent contractors as may be necessary or
2 desirable.

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

5 (e) The corporation shall comply with any
6 competitive bid requirements in Article 2, Chapter 16, Title
7 41, Code of Alabama 1975, and Chapter 2, Title 39, Code of
8 Alabama 1975, and any requirements relating to the procurement
9 of professional service providers in Section 41-16-72, Code of
10 Alabama 1975.

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

21 (g) The corporation is performing an essential
22 governmental function in the exercise of the powers conferred
23 upon it and is not required to pay any taxes or assessments,
24 whether state or local, upon its property or upon its
25 operations or the income from them, or taxes or assessments
26 upon property or loan obligations acquired or used by the
27 corporation or upon the income from them.

1 (h) Neither the members nor any officer, employee,
2 or committee of the corporation acting on behalf of it, while
3 acting within the scope of authority granted by this act, is
4 subject to any liability resulting from carrying out any of
5 the powers given in this act as provided in Section 36-1-12,
6 Code of Alabama 1975.

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

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

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

1 corporation, or a pledge of any money, income, or revenue of
2 the corporation from any source.

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

23 a. The instrument is not a general obligation of the
24 corporation, but is a limited obligation of the corporation
25 payable solely from the revenue, money, or property of the
26 corporation pledged therefor.

1 b. The instrument is not an obligation or debt of
2 the state, or any of its political subdivisions, and neither
3 the full faith and credit nor the taxing power of the state,
4 or any of its political subdivisions, is pledged to the
5 payment of the instrument.

6 c. The corporation does not have taxing power.

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

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

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

24 (7) The bonds may bear interest payable at a time
25 and at a rate as determined by the corporation, including the
26 determination by agents designated by the corporation under
27 guidelines established by it.

1 (8) Bonds may be sold by the corporation at public
2 or private sale at the price it determines and approves.

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

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

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

25 b. Pledging specific assets of the corporation
26 including, without limitation, loan obligations owned by it to
27 secure the payment of the bonds.

1 c. The use and disposition of the gross income from,
2 and payment of the principal of, and interest on loan
3 obligations and funding agreements owned by the corporation.

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

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

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

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

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

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

25 j. Requiring the corporation or the trustee under
26 the trust indenture to take any and all other action to obtain
27 payment of all sums required to eliminate any default as to

1 any principal of and interest on loan obligations and funding
2 agreements owned by the corporation or held by a trustee,
3 which may be authorized by the laws of this state.

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

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

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

25 (13) Any bonds issued by the corporation, the
26 transfer of bonds, and the income from them, are free from
27 taxation and assessment of every kind by the state and by the

1 local governments and other political subdivisions of the
2 state.

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

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

25 (16) At any time when no bonds, other financial
26 assistance, or other obligations of the corporation are
27 outstanding, the corporation may be dissolved upon the filing

1 with the Secretary of State of an application for dissolution,
2 which shall be subscribed by each of the members of the
3 corporation and which shall be sworn to by each member before
4 an officer authorized to take acknowledgments to deeds. Upon
5 the filing of the application for dissolution, the corporation
6 shall cease and any property owned by it at the time of its
7 dissolution shall pass to the state. The Secretary of State
8 shall file and record the application for dissolution, in an
9 appropriate book of record in his or her office, and shall
10 make and issue, under the Great Seal of the State, a
11 certificate stating that the corporation is dissolved and
12 shall record the certificate with the application for
13 dissolution.

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

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

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

25 Section 16. This act shall become effective
26 immediately following its passage and approval by the
27 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Tourism..... 09-FEB-21

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

Read for the third time and passed as amended 03-MAR-21

Yeas 32
Nays 0

Patrick Harris,
Secretary.