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3 MARSH SUBSTITUTE FOR SB215
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8 SYNOPSIS: This bill would create the Alabama Digital
9 Expansion Authority to oversee the expansion and
10 availability of high-speed broadband services
11 throughout the state.

12 This bill would require the authority to
13 develop and execute a Statewide Connectivity Plan
14 and establish and administer the Connect Alabama
15 Program, including the awarding of broadband
16 accessibility grants.

17 This bill would create the Connect Alabama
18 Advisory Board to make recommendations to the
19 authority to efficiently accomplish the objectives
20 and duties required under the bill.

21 This bill would also create the Alabama
22 University Research Alliance and the Alabama
23 Digital Finance Corporation to further support the
24 objectives of the Alabama Digital Expansion
25 Authority.
26

27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 Relating to broadband; to create the Alabama Digital
5 Expansion Authority; to provide for the membership and duties
6 of the authority; to provide for the appointment of a director
7 and employees of the authority; to create the Connect Alabama
8 Fund for the deposit of appropriations, gifts, grants, and
9 other funds; to create the Connect Alabama Advisory Board; to
10 provide for its members and duties; to provide that the
11 authority is exempt from competitive bid laws; to require
12 certain reports to the Legislature and the public; to provide
13 general rulemaking authority; and to create the Alabama
14 University Research Alliance; to provide for its members and
15 duties; to create the Alabama Digital Finance Corporation; and
16 to provide for its members and duties.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (c) The Governor shall call the first meeting of the
24 authority not later than 30 days from the effective date of
25 this act. At the first meeting, the members of the authority
26 shall elect a chair and vice chair. Meetings of the authority
27 shall be called by the chair or by a majority of its members.

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

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

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

22 (g) Members of the authority or any committee
23 established by the authority may participate in a meeting of
24 the authority or committee in person, by means of telephone
25 conference, video conference, or other similar communications
26 equipment so that all individuals participating in the meeting
27 may hear each other at the same time. Participation by any

1 such means shall constitute presence in person at a meeting
2 for all purposes, including for purposes of establishing a
3 quorum, and the affirmative vote of a majority of the members
4 then in office shall be necessary for any action of the
5 authority.

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

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

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

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

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

26 Section 5. (a) There is created the Connect Alabama
27 Advisory Board, which shall provide information and make

1 recommendations to the Alabama Digital Expansion Authority
2 regarding the implementation and administration of the Connect
3 Alabama Program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 r. The Chair of the Senate Finance and Taxation
20 Education Committee.

21 s. The State Superintendent of Education, or his or
22 her designee.

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

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

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

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

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

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

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

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

18 (f) Members of the advisory board may participate in
19 a meeting of the advisory board in person, by means of
20 telephone conference, video conference, or other similar
21 communications equipment so that all individuals participating
22 in the meeting may hear each other at the same time.

23 Participation by any such means shall constitute presence in
24 person at a meeting for all purposes, including for purposes
25 of establishing a quorum, and the affirmative vote of a
26 majority of the members in attendance shall be necessary for
27 any action of the advisory board.

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

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

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

21 a. The development and expansion of a secure,
22 reliable, and robust, multi-purpose, long-haul and middle mile
23 projects for fiber network throughout the state, which shall
24 be established in the most cost effective and efficient manner
25 for the state using existing, available infrastructure, and in
26 consultation with broadband service providers in the state,

1 where consistent with these parameters. The fiber network
2 shall not be owned by the state or the authority.

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

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

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

24 (4) To establish and administer the Connect Alabama
25 Program, in coordination with the Alabama Broadband
26 Accessibility Act, Section 41-23-210, et seq., Code of Alabama
27 1975, where applicable, consisting of a broadband

1 accessibility grant program for the purpose of promoting the
2 deployment and adoption of high-speed broadband Internet
3 networks, services, and technologies throughout the state,
4 including rural, underserved, and unserved areas of the state
5 consistent with the requirements of this act.

6 (5) To adopt rules and policies, within 90 days of
7 establishing the Connect Alabama Program, to administer the
8 program and to begin to accept applications for grants,
9 including any rules necessary to meet the future needs of the
10 grant program.

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

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

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

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

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

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

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

8 Section 7. (a) Members of the Alabama Digital
9 Expansion Authority, the director of the authority, and
10 employees of the authority shall be subject to Chapter 25 of
11 Title 36, Code of Alabama 1975. Members of the advisory board
12 are not subject to Chapter 25 of Title 36, Code of Alabama
13 1975.

14 (b) The authority does not have statewide
15 jurisdiction for purposes of Section 36-25-14, Code of Alabama
16 1975.

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

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

1 1975. Meetings of the advisory board are not subject to the
2 requirements of Chapter 25A of Title 36, Code of Alabama 1975.

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

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

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

25 Section 11. (a) The Alabama University Research
26 Alliance (AURA) shall be established as a subdivision of the
27 Alabama Digital Expansion Authority for the purpose of

1 assisting the state's universities, university health care
2 systems, research institutions, and the Alabama Community
3 College Development System in the development of cooperative
4 ventures of innovative technological significance to advance
5 higher education, research, health care, and economic
6 development within the state.

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

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

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

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

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

- 3 a. Auburn University.
- 4 b. The University of Alabama.
- 5 c. The University of Alabama at Birmingham.
- 6 d. The University of Alabama in Huntsville.
- 7 e. The University of Alabama at Birmingham Health
8 System.
- 9 f. The Alabama Community College System.

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

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

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

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

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

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

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

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

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

14 (4) To solicit, accept, and receive funding from the
15 authority or from federal, state, and private gifts, grants,
16 and loans in procuring the funding necessary for the
17 accomplishment of the purposes of the AURA, consistent with
18 the budgetary oversight of the authority.

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

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

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

10 (8) To exercise any power usually possessed by
11 private corporations performing similar functions, provided
12 the exercise of power is not in conflict with the constitution
13 and laws of the state.

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

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

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

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

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

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

8 (m) The AURA is not subject to Chapter 25A of Title
9 36, Code of Alabama 1975.

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

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

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

25 Section 13. (a) The Alabama Digital Expansion
26 Finance Corporation is hereby created as a public corporation
27 of the State of Alabama. The corporation shall have perpetual

1 existence, subject to the provisions for dissolution of the
2 corporation provided in this act. The corporation shall
3 consist of the following members:

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

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

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

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

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

11 (6) The Lieutenant Governor.

12 (b) Attendance by any three corporation members
13 shall constitute a quorum to authorize the transaction of
14 business.

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

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

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

21 (3) ELIGIBLE PROJECT. Includes any project that the
22 corporation determines would expand, increase, or improve the
23 availability of high-speed broadband networks, services, or
24 technologies throughout the state and which qualify for
25 funding under the statewide connectivity plan and its
26 priorities as set forth by the authority in Section 6(2) and

1 that further the development of the university research
2 network as set forth in Section 10(j)(7).

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

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

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

10 2. Fully insured by the FDIC.

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

15 b. Direct obligations of, or obligations the full
16 and timely payment of which is guaranteed by, the United
17 States of America, including unit investment trusts and mutual
18 funds that invest solely in such obligations.

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

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

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

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

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

11 f. Bonds, warrants, notes, or other obligations
12 issued by any state, county, or municipality that are rated by
13 at least one nationally recognized securities rating agency in
14 one of the three highest rating categories assigned by that
15 rating agency.

16 g. Investment agreements, including, without
17 limitation, guaranteed investment contracts, repurchase
18 agreements, and forward purchase agreements, provided that all
19 of the following are satisfied:

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

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

26 3. The securities, if purchased, are owned by the
27 corporation or a paying agent or trustee for any of the

1 corporation's obligations and are held by the corporation, the
2 paying agent, the trustee, or a third-party custodian
3 acceptable to the corporation or, if held as collateral, are
4 held by the corporation, the paying agent, the trustee, or a
5 third-party custodian acceptable to the corporation with a
6 perfected first security interest in such collateral.

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

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

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

27 (2) Sue and be sued.

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

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

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

12 (6) Enter into agreements with a department, agency,
13 or instrumentality of the United States or of this state or
14 another state for the purpose of planning and providing for
15 any eligible project.

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

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

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

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

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

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

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

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

19 (e) The corporation shall be exempt from any
20 competitive bid requirements in Article 2, Chapter 16, Title
21 41, Code of Alabama 1975, and Chapter 2, Title 39, Code of
22 Alabama 1975, and any requirements relating to the procurement
23 of professional service providers in Section 41-16-72, Code of
24 Alabama 1975.

25 (f) The corporation may provide grants, loans, and
26 other financial assistance to any person or entity to pay for
27 all or part of the cost of an eligible project. The

1 corporation may require the recipient of any grant, loan, or
2 other financial assistance to enter into a grant agreement or
3 financing agreement in connection with its grant, loan
4 obligation, or other financial assistance. The corporation
5 shall determine the form and content of any grant agreements,
6 financing agreements, and loan obligations, including the term
7 and rate or rates of interest on a financing agreement.

8 (g) The corporation is performing an essential
9 governmental function in the exercise of the powers conferred
10 upon it and is not required to pay any taxes or assessments,
11 whether state or local, upon its property or upon its
12 operations or the income from them, or taxes or assessments
13 upon property or loan obligations acquired or used by the
14 corporation or upon the income from them.

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

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

23 (j) (1) Whenever it shall become necessary that
24 monies be raised for eligible projects, including monies to be
25 used to refund any bonds then outstanding, the corporation may
26 issue bonds in an aggregate principal amount not to exceed two
27 hundred fifty million dollars (\$250,000,000) in any fiscal

1 year of the state, excluding bonds issued to refund other
2 outstanding bonds of the corporation, as provided in this act.

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

16 (3) Bonds, other financial assistance, and other
17 obligations issued by the corporation shall not constitute an
18 obligation or debt of this state, or any of its political
19 subdivisions, but shall be limited obligations of the
20 corporation payable solely from the revenue, money, or
21 property of the corporation pledged by the corporation for
22 such purpose as provided in this act. Bonds may not be general
23 obligations of the corporation. Any bonds, other financial
24 assistance, or other obligations of the corporation issued do
25 not constitute an indebtedness of the state or any of its
26 political subdivisions within the meaning of any
27 constitutional or statutory limitation, and neither the full

1 faith and credit nor the taxing power of the state, or any of
2 its political subdivisions, is pledged to the payment thereof.
3 No member of the corporation or any person executing bonds,
4 other financial assistance, or other obligations of the
5 corporation is liable personally thereon by reason of their
6 issuance or execution. Each bond, other financial assistance,
7 and other obligation issued under this act shall contain on
8 its face a statement to the effect of the following:

9 a. The instrument is not a general obligation of the
10 corporation, but is a limited obligation of the corporation
11 payable solely from the revenue, money, or property of the
12 corporation pledged therefor.

13 b. The instrument is not an obligation or debt of
14 the state, or any of its political subdivisions, and neither
15 the full faith and credit nor the taxing power of the state,
16 or any of its political subdivisions, is pledged to the
17 payment of the instrument.

18 c. The corporation does not have taxing power.

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

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

24 (6) The bonds shall be in a form and shall be
25 executed in a manner prescribed by the corporation. If any of
26 the members or officers of the corporation cease to be members
27 or officers before the delivery of any bonds signed by them,

1 their signatures or authorized facsimile signatures are
2 nevertheless valid and sufficient for all purposes as if they
3 had remained in office until the delivery of the bonds. The
4 bonds may be in the denominations, be executed in the manner,
5 be payable in the medium of payment, be payable at the place
6 and at the time, and be subject to redemption or repurchase
7 and contain other provisions determined by the corporation
8 prior to their issuance.

9 (7) The bonds may bear interest payable at a time
10 and at a rate as determined by the corporation, including the
11 determination by agents designated by the corporation under
12 guidelines established by it.

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

15 (9) Bonds may be secured by the provisions of a
16 resolution or a trust indenture between the corporation and a
17 paying agent or corporate trustee, as appropriate, which may
18 be the State Treasurer or any bank having trust powers or any
19 trust company doing business in this state. A resolution or
20 trust indenture may contain provisions for protecting and
21 enforcing the rights and remedies of the bondholders which are
22 reasonable and proper, including covenants setting forth the
23 duties of the corporation in relation to the exercise of its
24 powers and the custody, safekeeping, and application of its
25 money. The corporation may provide by the resolution or trust
26 indenture for the payment of the proceeds of the bonds and all
27 or any part of the revenues of the corporation to the paying

1 agent or trustee under the resolution or trust indenture or to
2 some other depository, and for the method of its disbursement
3 with safeguards and restrictions prescribed by it.

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

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

10 b. Pledging specific assets of the corporation
11 including, without limitation, loan obligations owned by it to
12 secure the payment of the bonds.

13 c. The use and disposition of the gross income from,
14 and payment of the principal of, and interest on loan
15 obligations and funding agreements owned by the corporation.

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

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

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

25 g. The procedure, if any, by which the terms of any
26 contract with bondholders may be amended or abrogated, the

1 amount of bonds, if any, the holders of which must consent
2 thereto, and the manner in which any consent may be given.

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

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

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

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

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

1 otherwise against the corporation, irrespective of whether the
2 parties have notice of the pledge.

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

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

16 (14) The bonds issued by the corporation are legal
17 investments in which all public officers or public bodies of
18 the state, its political subdivisions, all municipalities and
19 political subdivisions, all insurance companies and
20 associations, and other persons carrying on insurance
21 business, all banks, bankers, banking associations, trust
22 companies, savings banks, savings associations, including
23 savings and loan association investment companies, and other
24 persons carrying on a banking business, all administrators,
25 guardians, executors, trustees, and other fiduciaries, and all
26 other persons who are now or may be authorized in the future

1 to invest in bonds or other obligations of the state, may
2 invest funds in their control or belonging to them.

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

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

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

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

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

12 Section 16. This act shall become effective
13 immediately following its passage and approval by the
14 Governor, or its otherwise becoming law.