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

13 This bill would encourage accelerated  
14 private investment in broadband infrastructure  
15 through telecommunications companies, cable  
16 companies, and electric cooperatives in rural areas  
17 by amending the Alabama Renewal Act to provide a  
18 nonrefundable, transferable income tax credit equal  
19 to 10 percent of the investment in new qualified  
20 broadband telecommunications network facilities in  
21 rural areas, subject to a cap.

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

1 to operate any qualified broadband  
2 telecommunications network facilities.

3 This bill would also provide for the repeal  
4 of this bill following the close of fiscal year  
5 2025, with certain conditions.

6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 To amend the Alabama Renewal Act by adding Section  
12 40-18-415.1 to the Code of Alabama 1975, to provide for new,  
13 qualified broadband telecommunications network facilities and  
14 a nonrefundable, transferable credit against income tax  
15 liability imposed by state law; to provide an exemption from  
16 ad valorem taxation under state law and from sales and use tax  
17 levied, assessed, or payable under state law; to limit the  
18 term of the ad valorem tax exemptions and to cap the income  
19 tax credits; to provide for the carry forward of certain  
20 earned but unused credits; to provide methods for claiming the  
21 exemptions or credits; and to amend Act 2016-102, 2016 Regular  
22 Session, now appearing as Section 40-18-416, Code of Alabama  
23 1975, to provide for the repeal of its provisions under  
24 certain conditions.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

10           Section 3. Section 40-18-415.1 is added to Chapter  
11 18, Article 19, Title 40, Code of Alabama 1975, to read as  
12 follows:

13                   §40-18-415.1.

14           (a) For the purposes of this section, the following  
15 words have the following meanings:

16                   (1) QUALIFIED BROADBAND TELECOMMUNICATIONS NETWORK  
17 FACILITIES. Electronics, equipment, transmission facilities,  
18 fiber optic and copper cables, and any other real or personal  
19 property forming part of a system used directly or indirectly  
20 to transmit broadband signals capable of speeds of at least 10  
21 megabits per second of download speed and one megabit per  
22 second of upload speed to rural areas, purchased, constructed,  
23 or installed for use in Alabama after December 31, 2016.

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

1                   (b) Notwithstanding any other provision of this  
2 chapter, and subject to the limitations of this section, for  
3 all tax years beginning after December 31, 2016, any entity  
4 operating qualified broadband telecommunications network  
5 facilities for the direct provision by the entity of broadband  
6 telecommunications services to Alabama consumers shall be  
7 allowed the following tax credits or exemptions:

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

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

25                   (3) An exemption for any qualified broadband  
26 telecommunications network facilities from all sales and use

1 tax levied, assessed, or payable under Chapter 23 of this  
2 title.

3 (4) The tax credits and exemptions set forth in  
4 subdivisions (1) and (2) shall only be applied for by the  
5 entity operating the qualified broadband telecommunications  
6 network facilities, its parent company, or its majority-owned  
7 subsidiary, hereinafter referred to as the "operator".  
8 Contractors, vendors, and similar service providers who help  
9 build, develop, and install the qualified broadband  
10 telecommunications network facility shall not have the right  
11 to apply for the tax credits or exemptions.

12 (c) (1) Prior to claiming a credit or exemption under  
13 this section, an operator shall submit to the Department of  
14 Commerce information adequate to prove that the entity is  
15 entitled to a credit or exemption provided by this section for  
16 prior or future periods.

17 (2) An operator seeking recognition of a credit or  
18 exemption provided by this section, following its investment  
19 in qualified broadband telecommunications network facilities,  
20 shall submit the required information to the Department of  
21 Commerce within 12 months of completion of the project or  
22 phase of the project covered by the submission.

23 (3) Following any necessary examination, the  
24 Department of Commerce may issue a certification and deliver  
25 that certification to the Department of Revenue along with  
26 sending a copy of the certification to the operator seeking  
27 the exemption or credit.

1           (4) Upon receiving this certification from the  
2 Department of Commerce, the Department of Revenue and other  
3 state and local taxing authorities shall allow and recognize  
4 the tax credit and any exemptions provided in this section.

5           (d) Property exempt from ad valorem tax under this  
6 section shall be listed separately on any property tax return  
7 filed under Chapter 21 of this title, and any other applicable  
8 provision of this title.

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

19           (f) The Department of Commerce and the Department of  
20 Revenue shall develop forms and rules consistent with this  
21 section, which may not delay the effectiveness of the credits  
22 or exemptions authorized by this section.

23           (g) The nonrefundable, transferable income tax  
24 credit provided by this section, together with any credits  
25 carried forward in any one taxable year, may not exceed the  
26 lesser of the amount of income tax due under the Code of  
27 Alabama 1975, after allowance for all other credits permitted

1 by Article 19 of this chapter, or one of the following: (1)  
2 Seven hundred fifty thousand dollars (\$750,000) per taxpayer  
3 if the qualified broadband telecommunications network facility  
4 is regularly capable of transmitting broadband signals at  
5 speeds of at least 10 megabits per second of download speed  
6 and one megabit per second of upload speed. (2) One million  
7 four hundred thousand dollars (\$1,400,000) per taxpayer if the  
8 qualified broadband telecommunications network facility is  
9 regularly capable of transmitting broadband signals at speeds  
10 of at least 25 megabits per second of download speed and three  
11 megabits per second of upload speed.

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

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

25 (2) The tax credit certificate shall contain a  
26 section to be completed by the operator that provides the  
27 percentage or amount of credit that will be allocated to each

1 partner, member, or owner and the completed tax credit  
2 certificate may be provided to the Department of Revenue to  
3 transfer all or any portion of the tax credits passed through  
4 to the partner, member, or owner in accordance with this  
5 subsection.

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

16 (2) Once a credit is transferred, only the  
17 transferee may utilize the credit and the credit cannot be  
18 transferred again.

19 (3) A transferee of the tax credit may use the  
20 amount of tax credits transferred to offset any state tax due  
21 under this chapter.

22 (k) (1) The Department of Revenue shall adopt a  
23 transfer statement form to be filed by the operator with the  
24 Department of Revenue prior to the proposed transfer of any  
25 credit issued under this chapter.

26 (2) The transfer statement form shall include the  
27 name and federal taxpayer identification number of the



1 operator and each transferee listed therein, along with the  
2 amount of the tax credit to be transferred to each transferee  
3 listed on the form.

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

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

9 (1) A completed transfer statement form.

10 (2) A copy of the certification issued by the  
11 Department of Commerce documenting the amount of tax credits  
12 which the operator intends to transfer.

13 (3) A copy of the proposed written transfer  
14 agreement.

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

18 (m) (1) The operator shall file with the Department  
19 of Revenue a fully executed copy of the written transfer  
20 agreement it holds with each transferee within 30 days after  
21 the completed transfer.

22 (2) Filing of the fully executed copy of the written  
23 transfer agreement with the Department of Revenue shall  
24 perfect the transfer with respect to the transferee.

25 (n) (1) The Department of Revenue shall issue a tax  
26 credit certificate to each transferee listed in the agreement  
27 in the amount of the tax credit so transferred within 30 days

1 after the receipt by the Department of Revenue of the fully  
2 executed written transfer agreement.

3 (2) The tax credit certificate shall be used by the  
4 transferee in claiming the income tax credit pursuant to this  
5 section.

6 (o) The Department of Revenue may adopt additional  
7 rules as are necessary to permit verification of the ownership  
8 of the tax credits but may not adopt any rules which unduly  
9 restrict or hinder the transfer of the tax credits.

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

13 "§40-18-416.

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

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

1 income tax credits pursuant to subsection (h) of Section  
2 40-18-415.1."

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