

1 SB253  
2 182591-1  
3 By Senators Scofield, Livingston, Reed, Albritton, Stutts,  
4 Holtzclaw, Shelnuttt, Williams, Allen, Ward, Whatley, Beasley,  
5 Smith, Glover, Holley, Singleton, Blackwell, Smitherman and  
6 Waggoner  
7 RFD: Transportation and Energy  
8 First Read: 28-FEB-17

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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 by  
15 amending the Alabama Renewal Act to provide a  
16 nonrefundable, transferable income tax credit equal  
17 to 10 percent of the investment in new qualified  
18 broadband telecommunications network facilities,  
19 subject to a cap.

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

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

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5                   A BILL  
6                   TO BE ENTITLED  
7                   AN ACT

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

22                  BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

25                  Section 2. Section 40-18-415.1 is added to Chapter  
26                  18, Article 19, Title 40, Code of Alabama 1975, to read as  
27                  follows:

1 §40-18-415.1.

2 (a) For the purposes of this section, "qualified  
3 broadband telecommunications network facilities" shall mean  
4 electronics, equipment, transmission facilities, fiber optic  
5 and copper cables, and any other property forming part of a  
6 system used directly or indirectly to transmit broadband  
7 signals capable of speeds of at least 10 megabits per second  
8 of download speed and one megabit per second of upload speed,  
9 purchased, constructed, or installed for use in Alabama after  
10 December 31, 2016.

11 (b) Notwithstanding any other provision of this  
12 chapter, and subject to the limitations of this section, for  
13 all tax years beginning after December 31, 2016, any entity  
14 operating qualified broadband telecommunications network  
15 facilities for the direct provision by the entity of  
16 communication services to Alabama consumers shall be allowed  
17 the following tax credits or exemptions:

18 (1) A nonrefundable, transferable credit against  
19 state income tax liability imposed under this chapter, equal  
20 to 10 percent of the new investment by the entity in qualified  
21 broadband telecommunications network facilities.

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

1           (3) An exemption for any qualified broadband  
2 telecommunications network facilities from all sales and use  
3 tax levied, assessed, or payable under Chapter 23 of this  
4 title.

5           (c) (1) Prior to claiming a credit or exemption under  
6 this section, an entity must submit to the Department of  
7 Commerce information adequate to prove that the entity is  
8 entitled to a credit or exemption provided by this section for  
9 prior or future periods.

10           (2) An entity seeking recognition of a credit or  
11 exemption provided by this section, following its purchase or  
12 lease of qualified broadband telecommunications network  
13 facilities, must submit the required information to the  
14 Department of Commerce within 12 months of completion of the  
15 project covered by the submission.

16           (3) Following any necessary examination, the  
17 Department of Commerce may issue a certification and deliver  
18 that certification to the Department of Revenue along with  
19 sending a copy of the certification to the entity seeking the  
20 exemption or credit.

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

25           (d) Property exempt from ad valorem tax under this  
26 section shall be listed separately on any property tax return

1 filed under Chapter 21 of this title, and any other applicable  
2 provision of this title.

3 (e) Equipment vendors and other government entities  
4 shall rely on a copy of the certifications provided by the  
5 Department of Commerce for purposes of recognizing any tax  
6 credit or exemption provided in this section, and entities  
7 obtaining a certification from the Department of Commerce may  
8 obtain a refund of any sales and use or ad valorem taxes paid  
9 for qualified broadband telecommunications network facilities  
10 covered by the certification by filing a direct petition for  
11 refund that shall otherwise be subject to the procedures and  
12 limitations, as applicable, in Section 40-2A-7 and Sections  
13 40-1-60 to 40-1-65, inclusive.

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

18 (g) The nonrefundable, transferable income tax  
19 credit provided by this section, together with any credits  
20 carried forward in any one taxable year, may not exceed the  
21 lesser of the amount of income tax due under the Code of  
22 Alabama 1975, after allowance for all other credits permitted  
23 by Article 19 of this chapter, or seven hundred fifty thousand  
24 dollars (\$750,000).

25 (h) If the nonrefundable, transferable income tax  
26 credit provided by this section exceeds the limitation under

1 subsection (g), the excess amount may be carried forward for a  
2 period that does not exceed the next 14 taxable years.

3 (i) (1) Any income tax credit granted pursuant to  
4 this section to an entity that is a partnership or limited  
5 liability company shall be passed through to the partners,  
6 members, or owners, including any not-for-profit private  
7 entity that is a partner, member, or owner, respectively, on a  
8 pro rata basis or pursuant to an executed agreement among the  
9 partners, members, or owners documenting an alternate  
10 distribution method, without regard to their sharing of other  
11 tax or economic attributes of the entity.

12 (2) The tax credit certificate shall contain a  
13 section to be completed by the entity that provides the  
14 percentage or amount of credit that will be allocated to each  
15 partner, member, or owner and the completed tax credit  
16 certificate may be provided to the Department of Revenue to  
17 transfer all or any portion of the tax credits passed through  
18 to the partner, member, or owner in accordance with this  
19 subsection.

20 (j) (1) Except as provided in subdivision (2), all or  
21 any portion of any unused income tax credits under this  
22 section shall be transferable and assignable, subject to any  
23 transfer notice and verification requirements to be determined  
24 by the Department of Revenue, regardless of whether the  
25 transferee is a provider of communication services, without  
26 the requirement of transferring any ownership interest in the  
27 qualified broadband telecommunications network facilities or

1 any interest in the entity which originally qualified for the  
2 credits.

3 (2) Once a credit is transferred, only the  
4 transferee may utilize the credit and the credit cannot be  
5 transferred again.

6 (3) A transferee of the tax credit may use the  
7 amount of tax credits transferred to offset any state tax due  
8 under this chapter.

9 (k) (1) The Department of Revenue shall adopt a  
10 transfer statement form to be filed by the transferor with the  
11 Department of Revenue prior to the proposed transfer of any  
12 credit issued under this chapter.

13 (2) The transfer statement form shall include the  
14 name and federal taxpayer identification number of the  
15 transferor and each transferee listed therein, along with the  
16 amount of the tax credit to be transferred to each transferee  
17 listed on the form.

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

21 (1) For each transfer, the transferor shall file  
22 with the Department of Revenue all of the following:

23 (1) A completed transfer statement form.

24 (2) A copy of the certification issued by the  
25 Department of Commerce documenting the amount of tax credits  
26 which the transferor intends to transfer.



1 (3) A copy of the proposed written transfer  
2 agreement.

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

6 (m) (1) The transferor shall file with the Department  
7 of Revenue a fully executed copy of the written transfer  
8 agreement it holds with each transferee within 30 days after  
9 the completed transfer.

10 (2) Filing of the fully executed copy of the written  
11 transfer agreement with the Department of Revenue shall  
12 perfect the transfer with respect to the transferee.

13 (n) (1) The Department of Revenue shall issue a tax  
14 credit certificate to each transferee listed in the agreement  
15 in the amount of the tax credit so transferred within 30 days  
16 after the receipt by the Department of Revenue of the fully  
17 executed written transfer agreement.

18 (2) The tax credit certificate shall be used by the  
19 transferee in claiming the income tax credit pursuant to this  
20 section.

21 (o) The Department of Revenue may adopt additional  
22 rules as are necessary to permit verification of the ownership  
23 of the tax credits but may not adopt any rules which unduly  
24 restrict or hinder the transfer of the tax credits.

25 Section 3. Act 2016-102, 2016 Regular Session now  
26 appearing as Section 40-18-416, Code of Alabama 1975, is  
27 amended to read as follows:

1           "§40-18-416.

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

8           "(b) Section 40-80-415.1 shall be repealed following  
9 the close of fiscal year 2025, but the repeal shall not cause  
10 a reduction, suspension, or early termination of any credits  
11 or exemptions authorized under the section resulting from  
12 investment occurring in fiscal year 2025 or prior years during  
13 which the laws creating those credits or exemptions were in  
14 effect, including, without limitation, the carry forward of  
15 income tax credits pursuant to subsection (h) of Section  
16 40-18-415.1."

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