

1 HB540  
2 213237-4  
3 By Representative Poole  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 11-MAR-21

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ENROLLED, An Act,

To add Article 20, commencing with Section 41-10-800, to Chapter 10, Title 41 of the Code of Alabama 1975; to create the Alabama Innovation Corporation; to provide legislative findings; to provide for its incorporation; to provide for the creation of a board; to provide for the powers and duties of the corporation; to allow the corporation to enter into contracts; to create an accompanying fund and provide for the management of the fund; to provide for amendments to the governing documents of the corporation; and to provide for the dissolution of the corporation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Article 20, commencing with Section 41-10-800, is added to Chapter 10, Title 41 of the Code of Alabama 1975, to read as follows:

§41-10-800. Legislative findings.

The Legislature finds and declares all of the following:

(1) On July 16, 2020, the Governor issued Executive Order No. 720, establishing the Alabama Innovation Commission to "identify policies that will promote entrepreneurship, innovation, and related opportunities in the State of Alabama."

1           (2) The commission has issued an interim report  
2 outlining initial policy recommendations, including all of the  
3 following:

4           a. To develop a statewide innovation coordination  
5 and incentive structure to generate additional, successful  
6 business growth.

7           b. To develop an Alabama branding campaign to evolve  
8 the state into an emerging destination place.

9           c. To develop a program offering matching funds to  
10 recipients of federal Small Business Innovation Research and  
11 Small Business Technology Transfer Research grants.

12           (3) This article creates the structure recommended  
13 in paragraph (2)a., to implement the recommendations listed in  
14 paragraphs (2)b. and (2)c.

15           (4) Recognizing that this state's economy is rapidly  
16 changing, this article should be interpreted and applied to  
17 allow the corporation to respond rapidly, as its board deems  
18 appropriate, to challenges and opportunities in the fields of  
19 technology, research and development, innovation, and  
20 entrepreneurship.

21           (5) The corporation is charged with preparing this  
22 state for the economy of the future. The corporation shall  
23 make this state a hub for technology, research and  
24 development, innovation, and entrepreneurship by partnering  
25 with the private sector, state agencies, and state policy

1 makers to develop and implement programs and policies to lead  
2 to a more robust, diverse, and resilient economy for this  
3 state.

4 §41-10-801. Definitions.

5 For the purposes of this article, the following  
6 terms shall have the following meanings:

7 (1) ASPIRING ALABAMIAN. A person who has less than  
8 one hundred thousand dollars (\$100,000) of household net worth  
9 and who satisfies at least one of the following criteria:

10 a. The person has a principal residence in a  
11 community eligible for investment through the federal New  
12 Markets Tax Credit program under 26 U.S.C. § 45D(e) (1).

13 b. The person owns at least a majority interest in a  
14 business located in a community eligible for investment  
15 through the federal New Markets Tax Credit program under 26  
16 U.S.C. § 45D(e) (1).

17 c. The person does not hold, and is not actively  
18 pursuing, a baccalaureate degree or does not have a parent or  
19 legal guardian who holds a baccalaureate degree.

20 d. The person has at least one parent who does not  
21 have a high school diploma or its equivalent.

22 (2) BOARD. The governing board of the corporation.

23 (3) CORPORATION. The Alabama Innovation Corporation  
24 created by this article as an authority organized as a public  
25 corporation having a legal existence separate and apart from

1 the state and any county, municipality, or political  
2 subdivision.

3 (4) ECONOMIC DEVELOPMENT AND INNOVATION ENTITY.

4 a. A nonprofit corporation that possesses all of the  
5 following characteristics:

6 1. Is organized as a nonprofit corporation exempt  
7 from federal income tax under Section 501(c) of the Internal  
8 Revenue Code of 1986, as amended.

9 2. Has a record of, or can demonstrate that it is  
10 capable of, serving the entire state on matters involving  
11 economic development.

12 3. Has a record of, or can demonstrate that it is  
13 capable of, managing startup competitions or related  
14 programming designed to foster an innovation-based economy.

15 4. Has received, or is eligible to receive, grant  
16 funding from the state or from federal or private sources.

17 b. In determining whether a nonprofit corporation  
18 qualifies as an economic development and innovation entity,  
19 the board may attribute to the nonprofit corporation the  
20 experiences of its officers, staff, and directors with other  
21 nonprofit corporations.

22 (5) ELIGIBLE INVESTMENTS. All of the following:

23 a. Demand deposits (interest bearing) in federally  
24 insured banks, and interest bearing deposits, whether or not  
25 evidenced by certificates of deposits, in federally insured

1 banks; provided, however, that the deposits plus interest  
2 shall be fully secured by obligations described in paragraphs  
3 b. and c., to the extent that the deposits plus interest  
4 exceed insurance available from the Federal Deposit Insurance  
5 Corporation, or from any agency of the United States of  
6 America that may succeed to the functions of the Federal  
7 Deposit Insurance Corporation.

8 b. Bonds, notes, and other evidences of indebtedness  
9 that are direct obligations of the United States of America or  
10 that are unconditionally guaranteed as to both principal and  
11 interest by the United States of America.

12 c. Bonds, debentures, notes, or other evidences of  
13 indebtedness issued or guaranteed by any federal agencies or  
14 government sponsored enterprises authorized to issue their own  
15 debt instruments including, without limitation, to any of the  
16 following: Federal Farm Credit Bank, Federal Intermediate  
17 Credit Banks, the Export-Import Bank of the United States,  
18 Federal Land Banks, the Federal National Mortgage Association,  
19 the Governmental National Mortgage Association, the Federal  
20 Financing Bank, Federal Banks for Cooperatives, Federal Home  
21 Loan Banks, Federal Home and Loan Mortgage Association, or the  
22 Farmers Home Administration.

23 d. Repurchase agreements with federally insured  
24 banks or with government bond dealers reporting to and trading  
25 with the Federal Reserve Bank of New York, provided that the

1 repurchase agreements are secured by obligations described in  
2 paragraphs b. and c.

3 e. Interest-bearing time deposits, whether or not  
4 evidenced by certificates of deposit, in savings and loan  
5 associations: (i) the deposits of which are insured to the  
6 maximum extent possible by the Federal Savings and Loan  
7 Insurance Corporation or any agency of the United States of  
8 America that may succeed to its functions; and (ii) the  
9 principal office of which is located in the state. The  
10 deposits plus interest shall be secured by obligations  
11 described in paragraphs b. and c., to the extent that the  
12 deposits plus interest exceed insurance available from the  
13 Federal Savings and Loan Insurance Corporation or from any  
14 agency of the United States of America that may succeed to the  
15 functions of the Federal Savings and Loan Insurance  
16 Corporation.

17 f. Other legal investments which the corporation  
18 determines will have the effect of growing an innovative  
19 economy.

20 (6) FUND. The Alabama Innovation Fund.

21 (7) SMALL BUSINESS INNOVATION RESEARCH. The grants  
22 and programs defined in 15 U.S.C. § 638(e)(4).

23 (8) SMALL BUSINESS TECHNOLOGY TRANSFER RESEARCH. The  
24 grants and programs defined in 15 U.S.C. § 638(e)(6).

1           (9) STEM. Science, technology, engineering, and  
2 mathematics.

3           §41-10-802. Incorporation.

4           (a) The Governor, the Speaker of the House of  
5 Representatives, and the President Pro Tempore of the Senate  
6 shall present to the Secretary of State an application, signed  
7 by each of them, for the formation of the Alabama Innovation  
8 Corporation, as a public corporation, having a legal existence  
9 separate and apart from the state and any county,  
10 municipality, or political subdivision, which shall set forth  
11 all of the following:

12           (1) The name, official designation, and official  
13 office location of each of the applicants, together with a  
14 certified copy of the commission evidencing each applicant's  
15 right to office.

16           (2) The date on which each applicant was sworn into  
17 office and the term of office of each applicant.

18           (3) The name of the proposed public corporation,  
19 which shall be the Alabama Innovation Corporation.

20           (4) The location of the principal office of the  
21 proposed corporation.

22           (5) Any other matter relating to the corporation  
23 that the applicants may choose to insert and that is not  
24 inconsistent with this article or state law.



1           (b) The application shall be subscribed and sworn to  
2 by each applicant before an officer authorized by the laws of  
3 the state to take acknowledgments to deeds. The Secretary of  
4 State shall examine the application, and, if he or she finds  
5 that the application substantially complies with the  
6 requirements of this section, the application shall be filed  
7 and recorded in an appropriate book of records in the office  
8 of the Secretary of State.

9           (c) When the application has been made, filed, and  
10 recorded as provided in subsection (b), the applicants shall  
11 constitute a public corporation under the name stated in the  
12 application, and the Secretary of State shall make and issue  
13 to the applicants a certificate of incorporation pursuant to  
14 this article, under the Great Seal of the State, and shall  
15 record the certificate with the application. There shall be no  
16 fees paid to the Secretary of State in connection with the  
17 corporation.

18           (d) Notwithstanding any provision of law to the  
19 contrary, any corporation incorporated pursuant to this  
20 section shall not be deemed to be a part of the state for any  
21 purpose but shall be treated as a public corporation and body  
22 politic separate and apart from the state.

23           §14-10-803. Board of directors.

24           (a) The corporation shall be under the management  
25 and control of a board of directors, and all powers necessary

1 or appropriate for the management and control of the  
2 corporation shall be vested solely in the board. The board  
3 shall be comprised of both ex officio directors and at-large  
4 directors, all of whom shall be voting members of the board  
5 and shall be considered in determining whether a quorum is  
6 present.

7 (b) The board shall have five ex officio directors,  
8 consisting of the Governor, the Speaker of the House of  
9 Representatives, the President Pro Tempore of the Senate, and  
10 the House and Senate minority caucus leaders, or their  
11 designees. The service of each ex officio director shall begin  
12 and end concurrently with the beginning and end of his or her  
13 tenure in office or service as a minority caucus leader,  
14 respectively. Each ex officio director may appoint a person to  
15 serve in his or her place at any meeting of the board, or may  
16 designate a person to serve in his or her place at all  
17 meetings of the board until the term of the ex officio  
18 director should end, and the appointee or designee shall be  
19 counted for purposes of a quorum and voting.

20 (c) The Governor shall select six at-large  
21 directors, who shall be persons with experience relevant to  
22 the purposes and activities of the corporation including, but  
23 not limited to, experience with any of the following:

1           (1) Participating on boards of, or being employed  
2 by, nonprofit corporations which promote business or economic  
3 development throughout the state.

4           (2) Having other experience relevant to  
5 entrepreneurship and innovation including, but not limited to,  
6 any of the following:

7           a. Making more than one investment in seed or  
8 pre-seed stage startup companies or managing, or making  
9 investments in, one or more seed stage funds or venture  
10 capital funds.

11           b. Founding, or working as an executive in, a  
12 science or technology based business.

13           c. Founding, or working as an executive in, a  
14 business which acquired or commercialized intellectual  
15 property from a university or other research institution.

16           d. Founding, or working as an executive in, a  
17 business which regularly interacts with persons or businesses  
18 described in paragraphs a., b., or c.

19           (3) In making appointments of at-large directors,  
20 the Governor shall coordinate his or her appointments so that  
21 diversity of gender, race, and geographical areas of the board  
22 of directors is reflective of the makeup of the state. The  
23 service of each at-large director shall begin upon written  
24 acceptance of his or her appointment. The at-large directors  
25 selected by the Governor shall serve on the board for a term

1 ending on the date of the second year following his or her  
2 appointment as an at-large director. Each at-large director,  
3 regardless of whether a prior Governor selected him or her,  
4 shall continue to serve until the director is reappointed, or  
5 a successor is appointed, to the office. An at-large director  
6 appointed by the Governor may only serve a maximum of two  
7 consecutive terms of office, but may be reappointed after he  
8 or she has spent at least two years without serving as an  
9 at-large director. At-large directors may resign or may be  
10 removed by the Governor at any time and for any reason, at  
11 which time the Governor shall appoint a different person to  
12 serve, so long as that person satisfies the requirements set  
13 forth in this section. A person appointed to fill a vacancy  
14 shall serve out the remainder of the unexpired term and may be  
15 appointed to serve two additional consecutive terms.

16 (d) No director shall receive compensation because  
17 of his or her service as a director. Each director shall be  
18 reimbursed for actual travel expenses incurred in the  
19 performance of his or her duties as a director.

20 (e) Notwithstanding subsections (a) through (d),  
21 inclusive, upon the incorporation of the corporation, the  
22 Governor shall select as one of the initial at-large directors  
23 the individual serving in the leadership of the Alabama  
24 Innovation Commission as of January 1, 2021. As long as that  
25 individual is serving on the board, he or she shall be the

1 chair and presiding officer of the board. The individual shall  
2 serve on the board for a term ending on the date of the second  
3 year following his or her appointment as an at-large director  
4 and may be reappointed for additional consecutive two-year  
5 terms as an at-large director. At the time that the individual  
6 shall resign, be removed, or otherwise no longer serve as  
7 chair, the position shall be subject to the appointment  
8 provisions for at-large directors provided by this section  
9 and, thereafter, the Governor shall appoint any member of the  
10 board to be the chair of the board.

11 (f) Notwithstanding any provision of Chapter 25A of  
12 Title 36, a majority of the directors shall constitute a  
13 quorum for the transaction of business by the board, and  
14 decisions shall be made on the basis of a majority of the  
15 quorum then present and voting. No vacancy in the membership  
16 of the board or the voluntary disqualification or abstention  
17 of any director shall impair the right of a quorum to exercise  
18 all of the powers and duties of the board. Members of the  
19 board may participate in meetings of the board in person, by  
20 means of telephone conference, video conference, or other  
21 similar communications equipment, so that all individuals  
22 participating in the meeting may hear each other at the same  
23 time. Participation by any such means shall constitute  
24 presence in person at a meeting for all purposes, including  
25 for purposes of establishing a quorum.

1           (g) The board may appoint other officers to perform  
2 duties not inconsistent with this article or applicable law,  
3 as the board deems necessary or appropriate.

4           (h) In addition to regular meetings of the board, as  
5 may be provided by law or by bylaws adopted by the board,  
6 special meetings of the board may be called by the chair  
7 acting alone or by any three other directors acting in  
8 concert, in each case upon notice to each director given in  
9 person, by email, by registered letter, or by other means.  
10 Notice to each director may be waived upon the unanimous  
11 written consent of all directors, either before or after the  
12 meeting with respect to which the notice would otherwise be  
13 required.

14           (i) All proceedings of the board, except executive  
15 sessions, shall be reduced to writing on behalf of the board  
16 and maintained in the permanent records of the corporation, a  
17 copy of which shall be filed in the principal office of the  
18 corporation and shall be open for public inspection there  
19 during regular business hours. The principal office of the  
20 corporation shall be the principal office of the director of  
21 finance.

22           §41-10-804. Powers of the board.

23           (a) The board shall have all of the powers necessary  
24 to carry out and effectuate the purposes of this article. The  
25 foregoing sentence shall be construed broadly, so that the

1 failure to state a power of the board shall not be considered  
2 a limitation upon the board, so long as the board shall find  
3 that the power is necessary to allow the board to fulfill the  
4 purpose of the corporation, as provided by this article. In  
5 the event that the board should determine to add one or more  
6 powers, they may do so by amending their application of  
7 formation. Without limiting the generality of the foregoing,  
8 the board shall have and exercise all of the following powers:

9 (1) Recognize that the economy of today will not  
10 exist tomorrow and implement policies that help this state,  
11 and residents of this state, embrace that future.

12 (2) Take actions to make this state a hub for  
13 technology, innovation, and entrepreneurship by partnering  
14 with the private sector, state agencies, and state policy  
15 makers to develop and implement programs and policies that  
16 will lead to a more robust and inclusive economy for this  
17 state.

18 (3) Support, financially and otherwise, the  
19 establishment or growth, or both, of all of the following:

20 a. Marketing and branding the state including, but  
21 not limited to, the state's business climate, the state's tax  
22 rates and structures, the state's innovation-focused  
23 incentives and abatements, the state's business related  
24 programs, and the state's innovation and entrepreneurial  
25 ecosystems.

1           b. Pursuing and supporting commercialization,  
2           entrepreneurship, research and development, and technology  
3           transfer facilities, funding, incentives, partnerships, events  
4           and programs including, but not limited to, all of the  
5           following:

6                 1. Creating, operating, and supporting accelerator  
7                 or similar programs including, but not limited to, university  
8                 and corporate focused accelerator or similar programs.

9                 2. Developing programing, incubators, and  
10                accelerators that serve this state's startups and their  
11                founders, and disseminating both in person and online.

12                3. Creating, operating, and supporting industry  
13                focused research and development centers established by public  
14                universities in collaboration with existing industry in  
15                Alabama.

16           c. Incentivizing and providing funding to innovative  
17           businesses or programs that support innovation in this state's  
18           economy including, but not limited to, the following:

19                1. Assisting recipients of Small Business Innovation  
20                Research and Small Business Technology Transfer Research  
21                funding.

22                2. Encouraging pre-seed, seed, venture capital, and  
23                private equity funding activity in this state.

24                3. Supporting community development financial  
25                institutions that serve residents of this state.



1           4. Supporting qualified STEM teachers and technology  
2 staff teaching and working in rural or otherwise  
3 under-performing or under-resourced schools in this state.

4           d. Engaging in rural initiatives that support  
5 innovation including, but not limited to, the creation,  
6 operation, and support of entrepreneurial centers, and  
7 marketing rural quality of life and recreational  
8 opportunities.

9           e. Creating, operating, and supporting research and  
10 development of a 21st-Century transportation system that  
11 reflects emerging technologies and multi-modal concepts.

12           f. Attracting, recruiting, and retaining skilled  
13 workers, STEM workers, and other in-state and out-of-state  
14 two-year and four-year college, university, and community  
15 college graduates, and engaging in other innovation focused  
16 workforce development activities.

17           g. Supporting businesses owned or led, or both, by  
18 aspiring Alabamians.

19           h. Supporting businesses headquartered in census  
20 tracts that satisfy the definition of low income communities  
21 found in 26 U.S.C. § 45D(e).

22           (4) Adopt, alter, and repeal bylaws for the  
23 regulation and conduct of the corporation's affairs and  
24 business, and for the implementation of this article.

1           (5) Take actions as may be necessary or convenient  
2 to accomplish any purpose of the corporation, or to exercise  
3 any power of the corporation.

4           (6) Make and enter into contracts, leases,  
5 agreements, and take other actions as may in its judgment be  
6 necessary or desirable to accomplish any purpose, and to  
7 exercise any power necessary for the accomplishment of the  
8 purposes of the corporation or incidental to the powers  
9 expressly set forth in this article.

10          (7) Appoint, employ, and contract with employees,  
11 agents, advisors, consultants, and service providers  
12 including, but not limited to, attorneys, accountants,  
13 financial experts, and other advisors, consultants, and agents  
14 as may in its judgment be necessary or desirable to accomplish  
15 any purpose of the corporation or incidental to the powers  
16 expressly set forth in this article, and to fix the  
17 compensation of those persons.

18          (8) Manage, invest, and expend capital from the  
19 fund, as provided in Section 41-10-806, and to provide for the  
20 indemnification of directors.

21          (9) Use the financial resources of the corporation  
22 to purchase, lease, or otherwise acquire real and personal  
23 property, and to use, develop, operate, lease, or convey those  
24 properties, as may in its judgment be necessary or desirable

1 to accomplish any purpose of the corporation or incidental to  
2 the powers expressly set forth in this article.

3 (10) Lend its credit to, or grant public monies and  
4 things of value in aid of or to, any individual, firm,  
5 corporation, or other business entity, public or private, as  
6 may in its judgment be necessary or desirable to accomplish  
7 any purpose of the corporation or incidental to the powers  
8 expressly set forth in this article.

9 (11) Promote and solicit taxpayer donations for tax  
10 credits that promote innovation in the state.

11 (12) Take any action necessary to exercise its  
12 rights or fulfill its obligations relevant to the corporation  
13 under state law.

14 (b) The board shall create an advisory committee  
15 which shall provide information and make recommendations to  
16 the board concerning the implementation of this article. The  
17 advisory committee shall have no legal authority or other  
18 responsibility over the actions of the corporation. The board  
19 shall coordinate its appointments so that diversity of gender,  
20 race, and geographical areas is reflective of the makeup of  
21 this state. The members of the advisory committee shall serve  
22 at the pleasure of the board. The board shall appoint one  
23 member of the advisory committee to serve as the chair of the  
24 advisory committee, and meetings of the advisory committee may  
25 be called by its chair or by the board. Members of the

1 advisory committee may participate in a meeting of the  
2 committee in person, by means of telephone conference, video  
3 conference, or other similar communications equipment so that  
4 all individuals participating in the meeting may hear each  
5 other at the same time. Participation by any such means shall  
6 constitute presence in person at a meeting for all purposes,  
7 including for purposes of establishing a quorum, and the  
8 affirmative vote of a majority of the members in attendance  
9 shall be necessary for any action of the advisory committee.  
10 The committee and its members shall not be subject to Chapter  
11 25 or 25A of Title 36 nor Section 36-12-40.

12 (c) The board may enter into agreements with one or  
13 more economic development and innovation entities to exercise  
14 all powers of the corporation, so long as, all of the  
15 following:

16 (1) The agreement requires regular reporting to the  
17 corporation by the economic development and innovation entity.

18 (2) The agreement allows for the overhead costs of  
19 the economic development and innovation entity to be  
20 reimbursed or otherwise paid only if directly related to the  
21 fulfillment of the agreement, as determined by the  
22 corporation.

23 (d) The board may make, enter into, and execute  
24 contracts, agreements, and other instruments with, accept aid

1 and grants from, and cooperate with, any other person or  
2 entity including, but not limited to, all of the following:

3 (1) The United States of America, the state, or any  
4 agency, instrumentality, or political subdivision of either.

5 (2) For profit or nonprofit private entities.

6 (3) Public bodies, departments, or authorities  
7 including, but not limited to, the executive departments of  
8 the state, to act on behalf of the board in carrying out  
9 functions which the board determines are consistent with the  
10 corporation's powers.

11 (4) Without limiting the foregoing, the corporation  
12 may enter into an agreement with the Alabama Department of  
13 Economic and Community Affairs pursuant to which the  
14 corporation may exercise all rights, powers, and obligations  
15 of the department relating to opportunity funds under Sections  
16 40-18-6.1 and 41-10-46.01. Project agreements under Section  
17 40-18-6.1, shall not be required to comply with Section  
18 40-18-6.1(c).

19 Project agreements under Sections 40-18-6.1 and  
20 41-10-46.01 include investments in qualified opportunity zones  
21 as defined in 26 U.S.C. § 1400Z-1 and low-income communities  
22 as defined in 26 U.S.C. § 45D(e).

23 (e) The corporation shall be, and shall operate as,  
24 a public corporation and shall have a legal existence separate

1 and apart from the state and any county, municipality, or  
2 political subdivision.

3 (f) Members of the board shall be subject to Chapter  
4 25 of Title 36, but the corporation shall not be deemed to  
5 have statewide jurisdiction for purposes of Section 36-25-14.  
6 For the purposes of Chapter 25 of Title 36, the corporation  
7 shall not be deemed a business, and a public official or  
8 public employee holding a position with the corporation is not  
9 precluded from taking official actions affecting the  
10 corporation so long as there is no impermissible personal  
11 gain. The board shall be subject to Chapter 25A of Title 36.

12 §41-10-805. Corporation contracts.

13 The board may enter into contracts, leases,  
14 agreements, investments, and may otherwise expend monies  
15 without compliance with Article 2, commencing with Section  
16 41-16-20, of Chapter 16 of Title 41, and Chapter 2 of Title  
17 39, or any requirements relating to the procurement of  
18 professional service providers in Section 41-16-72. Solely as  
19 a result of entering into contracts, leases, agreements,  
20 investments, or otherwise, no for-profit or nonprofit private  
21 entity, nor the officers, employees, agents, or directors of  
22 any of the foregoing, shall become subject to Chapter 25 or  
23 Chapter 25A of Title 36; Article 2, commencing with Section  
24 41-16-20, of Chapter 16 of Title 41; Chapter 2 of Title 39;  
25 Section 36-12-40, or any requirements relating to the

1 procurement of professional service providers in Section  
2 41-16-72.

3 §41-10-806. Alabama Innovation Fund creation.

4 (a) (1) For the benefit of the state and the  
5 residents thereof, there is created an irrevocable fund named  
6 the Alabama Innovation Fund, which shall be funded from all of  
7 the following sources:

8 a. Proceeds of any gifts, grants, or contributions.

9 b. Revenue sources as directed by, and at the  
10 discretion of, the Legislature.

11 c. Appropriations as directed by, and at the  
12 discretion of, the Legislature.

13 d. Investment income.

14 e. Any other lawful sources.

15 (2) The fund shall be administered in accordance  
16 with this article. All revenues received by the fund shall be  
17 deposited in the fund upon receipt, shall be invested by the  
18 board in a manner consistent with this article, and shall be  
19 withdrawn and expended by the corporation for the purposes of  
20 this article in a manner consistent with the powers granted to  
21 the corporation by this article.

22 (b) The fund shall be under the management and  
23 control of the board, and all powers necessary or appropriate  
24 for the management and control of the fund shall be vested  
25 solely in the board.

1           §41-10-807. Alabama Innovation Fund management.

2           (a) The fund shall be held in perpetual trust and  
3 shall not be appropriated by the Legislature or expended or  
4 disbursed for any purpose other than as provided in this  
5 article. Earnings on the fund's investments shall remain a  
6 part of the fund. The board may expend the fund's earnings and  
7 principal in furtherance of its purposes.

8           (b) (1) To the extent practicable, the board shall  
9 keep all monies at any time held in the fund invested in  
10 eligible investments, in its sole and uncontrolled judgment,  
11 as shall produce the greatest trust income over the term of  
12 the investments while preserving the capital. In making any  
13 investment of monies held in the fund, the board shall  
14 exercise the judgment and care, under the circumstances  
15 prevailing at the time of the investment, which an  
16 institutional investor of the highest standard of prudence,  
17 intelligence, and financial expertise would exercise in the  
18 management and investment of large assets entrusted to it, not  
19 for the purpose of speculative profit, but for the permanent  
20 generation and disposition of the fund's financial resources,  
21 considering the probable safety of capital, as well as the  
22 expected amount and frequency of income.

23           (2) The board shall have full power and authority to  
24 select the eligible investments in which monies held in the  
25 fund shall at any time be invested, and, to the extent not



1 inconsistent with any express provision of this article, the  
2 eligible investments so selected shall be acquired from those  
3 issuers, underwriters, brokers, or other sellers on terms and  
4 conditions; shall be acquired for purchase prices reflecting  
5 such discount below or premium above the par or face amount  
6 thereof; shall bear such dates and be in such form,  
7 denominations, and series; shall mature or be subject to  
8 mandatory redemption on such dates; shall bear interest at  
9 such rate or rates payable at such intervals, or,  
10 alternatively, shall provide income to the holder thereof in  
11 such manner, including, without limitation thereto, the  
12 purchase of such investments at a discount which represents  
13 all or part of the income or profit derived therefrom; shall  
14 be unsecured or secured in such manner; shall contain such  
15 provisions for prepayment or redemption at the option of the  
16 issuer or obligor; and shall contain or be subject to such  
17 other provisions as shall, in all of the foregoing respects,  
18 be determined by the board in exercise of its sole and  
19 uncontrolled judgment.

20 (3) The board shall have full power and authority to  
21 invest the fund capital in any eligible investments producing  
22 trust income in accordance with the schedule as the board, in  
23 the exercise of its sole and uncontrolled judgment, shall  
24 determine to be in the best interests of the state, and in  
25 determining the schedule the board may emphasize future

1 benefits in preference to near-term needs. The board shall  
2 have complete discretion in making decisions as to when monies  
3 in the fund shall be invested; as to the purchase price or  
4 other acquisition cost to be paid or incurred in acquiring  
5 investments for the fund; as to when investments constituting  
6 part of the fund shall be sold, liquidated, or otherwise  
7 disposed of; and as to the amount and nature of the price or  
8 other consideration to be received by the fund upon the sale,  
9 liquidation, or other disposition of investments constituting  
10 part of the fund. No action may be taken by the executive  
11 department of the state which impairs or interferes with the  
12 power, authority, and discretion conferred upon the board by  
13 this article with respect to the acquisition, management,  
14 control, and disposition of investments at any time  
15 constituting part of the fund. No member of the board may be  
16 held personally liable for any liability, loss, or expense  
17 suffered by the fund, unless the liability, loss, or expense  
18 arises out of or results from the willful misconduct or  
19 intentional wrongdoing of the member of the board. No member  
20 of the board shall be responsible for the adequacy of the fund  
21 to satisfy and discharge any obligation of the corporation.

22 (c) The board shall cause an annual audit of the  
23 fund to be performed for each fiscal year by the Department of  
24 Examiners of Public Accounts or, in the discretion of the  
25 board, by an independent certified public accounting firm. The

1 report of the audit shall be prepared in accordance with  
2 applicable accounting principles. The board shall cause to be  
3 prepared and publicized financial and other information  
4 concerning the fund, as may from time to time be provided by  
5 law duly enacted by the Legislature, but in the absence of any  
6 law directing the preparation and publication of different  
7 reports, the board shall cause to be prepared and made public,  
8 within 30 days after the end of each quarterly period in each  
9 fiscal year, a report containing all of the following:

10 (1) A statement of the capital then held in the fund  
11 showing any changes since the last quarterly report.

12 (2) A statement of the trust income received during  
13 the quarterly period in question.

14 (3) A statement of the investments then held in the  
15 fund, including descriptions and respective values.

16 (4) A statement of the trust income received to date  
17 during the current fiscal year.

18 (5) Any other information determined by the board to  
19 reflect a full and complete disclosure of the financial  
20 operations of the fund.

21 §41-10-808. Amendments.

22 At any time, the board, by majority vote, may cause  
23 its application for formation to be amended by having three of  
24 its directors file an amendment with the Secretary of State,

1 which shall be sworn to by each signatory thereto before an  
2 officer authorized to take acknowledgments to deeds.

3 §41-10-809. Dissolution.

4 At any time, the board, by three-quarters vote, may  
5 dissolve the corporation by having three-quarters of its  
6 directors file with the Secretary of State an application for  
7 dissolution, which shall be sworn to by each signatory thereto  
8 by an officer authorized to take acknowledgments to deeds.

9 Upon the filing of the application for dissolution, the  
10 corporation shall cease to exist. The Secretary of State shall  
11 file and record the application for dissolution, and shall  
12 make and issue, under the Great Seal of the State, a  
13 certificate that the corporation is dissolved, and shall  
14 record the certificate with the application for dissolution.  
15 Title to all property held in the name of the corporation  
16 shall be vested in the state upon dissolution of the  
17 corporation, and the ex officio directors, by written consent,  
18 shall direct how to dispose of the fund.

19 §41-10-810. Liberal Construction.

20 This article shall be liberally construed to  
21 effectuate its purpose.

22 Section 2. The Alabama Innovation Corporation shall  
23 report to the Legislature beginning in 2023, pursuant to the  
24 provisions of Section 40-1-50, Code of Alabama 1975 an

1 assessment of the corporation efforts to accomplish the goals  
2 pursuant to this act.

3 Section 3. The provisions of this act are severable.  
4 If any part of this act is declared invalid or  
5 unconstitutional, that declaration shall not affect the part  
6 which remains.

7 Section 4. All laws or parts of laws which conflict  
8 with this act are repealed.

9 Section 5. Section 41-10-46.01 Code of Alabama 1975,  
10 is amended to read as follows:

11 §41-10-46.01.

12 (a) Any qualified fund may invest at least three  
13 percent of its corpus in one or more approved opportunity  
14 funds.

15 (b) The following terms shall have the following  
16 meanings:

17 (1) "ADECA" shall mean the Department of Economic  
18 and Community Affairs.

19 (2) "Approved opportunity fund" shall mean any fund  
20 approved by ADECA as meeting all of the following:

21 a. ADECA determines that the fund has the capacity  
22 to improve Alabama's low-income opportunity zone communities  
23 by approving an application showing all of the following:

24 1. The amount of existing committed capital or  
25 potential to raise committed capital.

1           2. The investment track record or strength of the  
2 applicant's management team.

3           3. The existing project pipeline or strategy for  
4 developing new pipeline.

5           4. The fund structure and anticipated returns within  
6 that fund structure.

7           5. The presence of sound legal, accounting, and  
8 compliance policies and procedures.

9           6. A strategy for measuring, tracking, and annual  
10 reporting to ADECA on how the approved opportunity fund is  
11 achieving investment outcomes set forth in its applications.

12           7. One or more clear and demonstrable partnerships  
13 with local or statewide public or nonprofit entities to ensure  
14 community engagement.

15           b. ADECA determines that the fund has committed to  
16 deploying a substantial portion of its capital into qualified  
17 opportunity zone property in Alabama within one or more of the  
18 following asset classes:

19           1. Rural areas described in Section 40-18-376.1(a).

20           2. Technology companies which meet all the criteria  
21 in Section 40-18-376.3(c), or facilities to house such  
22 companies.

23           3. Companies or projects described in Section  
24 40-18-372(1), or facilities to house such companies or  
25 projects.

1           4. Workforce training.

2           5. Affordable housing, in which case the burden  
3 shall be on the fund to demonstrate rent levels charged and  
4 why those rents are appropriate for a particular geographic  
5 area.

6           6. Remediation of blighted or abandoned property, in  
7 which case the burden shall be on the fund to demonstrate why  
8 targeted properties qualify as blighted or abandoned.

9           7. Revitalization of distressed urban neighborhoods,  
10 in which case the burden shall be on the fund to demonstrate  
11 why a neighborhood is distressed and why its investment  
12 strategy will revitalize the neighborhood.

13           8. Companies or projects that will have substantial,  
14 measurable impact on social, environmental, or economic  
15 conditions in low-income areas, or facilities to house such  
16 companies or projects, in which case the burden shall be on  
17 the fund to demonstrate why such companies or projects will  
18 have such substantial effects.

19           c. In addition, ADECA may determine that a fund  
20 meets paragraph b. if it can demonstrate that it will create  
21 substantial wealth within and for residents of Alabama's  
22 low-income and rural communities and will directly track the  
23 wealth created.

24           d. The fund commits to investing at least 75 percent  
25 of its committed capital in qualified opportunity zone

1 property located in Alabama. ADECA shall adopt rules for  
2 determining whether an investment in a corporation or  
3 partnership should be considered to be located in Alabama. For  
4 purposes of this paragraph, "qualified opportunity zone  
5 property" shall have the meaning given to it in 26 U.S.C. §  
6 1400Z-2(d)(2), and shall also include a property located in a  
7 low-income community as defined by 26 U.S.C. § 45 (D)(e).

8 (3) "Qualified funds" are each of the following:

9 a. The Alabama Trust Fund created by Amendment No.  
10 450 to the Constitution of Alabama of 1901, now appearing as  
11 Section 219.02 of the Official Recompilation of the  
12 Constitution of Alabama of 1901, as amended.

13 b. The Alabama Game and Fish Fund created by Section  
14 9-2-20, the Alabama Game and Fish Endowment Fund created by  
15 Section 9-2-20.1, and the Alabama Nongame Wildlife Endowment  
16 created by Section 9-2-20.2.

17 c. The Alabama Marine Resources Endowment Fund  
18 created by Section 9-11-23 and the Marine Resources Fund  
19 referred to in that section.

20 d. The Alabama Corrections Institution Finance  
21 Authority funds referred to in Chapter 2 of Title 14.

22 e. The Public Health Finance Authority funds  
23 described in Chapter 3A of Title 22.

24 f. The Public Road and Bridge funds described in  
25 Chapter 6 of Title 23.



1                   g. The Unemployment Compensation Trust Fund created  
2 by Section 25-4-30.

3                   h. The Mental Health Finance Authority funds  
4 described in Article 11 of Chapter 10 of Title 41.

5                   i. The Incentives Financing Authority funds  
6 described in Division 1 of Article 16 of Chapter 10 of Title  
7 41.

8                   j. The Alabama Senior Services Trust Fund created by  
9 Section 41-15C-1.

10                   k. Any fund of funds representing two or more of the  
11 funds listed in paragraphs a. through j.

12                   (c) ADECA may charge application fees for the powers  
13 and responsibilities delegated to it herein, and it may charge  
14 fees for its financial and oversight audits of the funds.

15 ADECA may retain consultants to assist it with the powers and  
16 responsibilities delegated to it herein.

17                   Section 6. This act shall become effective on the  
18 first day of the second month following its passage and  
19 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 22-APR-21, as amended.

Jeff Woodard  
Clerk

Senate	04-MAY-21	Amended and Passed
House	06-MAY-21	Concurred in Senate Amendment