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3 SUBSTITUTE FOR SB147, AS ENGROSSED  
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8 SYNOPSIS: Under existing law, members of certain  
9 governmental bodies may participate in a meeting of  
10 that body by certain electronic means. Members  
11 participating by electronic means do not count  
12 towards a quorum and may not participate in  
13 executive sessions.

14 This bill would provide that members  
15 participating by electronic means are present for  
16 all purposes so long as a certain number of members  
17 are physically present, and would remove a  
18 prohibition on participation in executive sessions  
19 by members through electronic means.

20 This bill would also provide that members of  
21 the public be allowed to participate in a meeting  
22 held by electronic means.

23 This bill would authorize members of certain  
24 local governmental bodies to participate in a  
25 meeting of that body by electronic means, under  
26 certain conditions, including that a quorum of the  
27 body must be physically present.

1                   This bill would make nonsubstantive,  
2                   technical revisions to update the existing code  
3                   language to current style.

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5                   A BILL  
6                   TO BE ENTITLED  
7                   AN ACT

8  
9                   Relating to meetings of governmental bodies; to  
10                  amend Section 36-25A-5.1, Code of Alabama 1975, relating to  
11                  meetings of governmental bodies by electronic means, to  
12                  further provide for the participation by members of a  
13                  governmental body at a meeting held by electronic means; to  
14                  provide further for public participation at a meeting held by  
15                  electronic means; to add Section 36-25A-5.2 to the Code of  
16                  Alabama 1975, to provide for electronic attendance at meetings  
17                  of local governmental bodies by members and the public; and to  
18                  make nonsubstantive, technical revisions to update the  
19                  existing code language to current style.

20                  BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21                  Section 1. Section 36-25A-5.1, Code of Alabama 1975,  
22                  is amended to read as follows:

23                  "§36-25A-5.1.

24                  "(a) (1) Except as provided in subsection (d),  
25                  members of a governmental body as defined in Section 36-25A-2,  
26                  that is comprised of members from two or more counties, may  
27                  participate in a meeting of that governmental body by means of

1 telephone conference, video conference, or other similar  
2 communications equipment which allows all persons  
3 participating in the meeting to hear each other at the same  
4 time. Participation by ~~such~~ these electronic means shall  
5 constitute presence in person at the meeting for all purposes,  
6 ~~except for the establishment of a quorum; provided, that at~~  
7 least three members, or a majority of a quorum of members,  
8 whichever is less, are physically present at the physical  
9 meeting location required by subsection (b).

10 "(2) If a member is participating in a meeting of a  
11 governmental body by electronic means as authorized in this  
12 section, the governmental body shall ensure that means of  
13 access to the electronic communication is published in the  
14 same manner as the notice of the meeting is published pursuant  
15 to this chapter.

16 "(3) The means of access shall allow members of the  
17 public to hear the meeting. A governmental body is not  
18 required to allow the public to participate by electronic  
19 means to any extent beyond being able to hear the meeting.

20 "(b) Every meeting shall have one physical location  
21 available for persons wishing to be physically present, at  
22 which any interested member of the public shall be able to  
23 hear all persons who are participating remotely, and that  
24 location shall be published in a manner consistent with this  
25 chapter.

26 "(c) ~~Utilization~~ Except as otherwise provided by  
27 this section, use of electronic communication shall be done in

1 a manner that complies with this chapter ~~and allowing members~~  
2 ~~of the public to be present at the physical location required~~  
3 ~~by subsection (b) is sufficient for compliance with this~~  
4 ~~chapter and the electronic communication does not have to be~~  
5 ~~otherwise made available to members of the public.~~

6 "(d) The members of the following governmental  
7 bodies are prohibited from participating in meetings and  
8 deliberation via electronic communications as otherwise  
9 authorized by this section:

10 "(1) The Board of Pardons and Paroles, ~~the~~.

11 "(2) The Public Service Commission, ~~standing~~.

12 "(3) Standing committees of the Legislature while  
13 the Legislature is in session, ~~a~~.

14 "(4) A governing board taking any action under the  
15 Students First Act of 2011, ~~any~~.

16 "(5) Any state board or agency acting in any quasi  
17 judicial capacity involving employment actions or the  
18 ~~promulgation~~ adoption of rules pursuant to statutory  
19 authority, ~~any~~.

20 "(6) Any state board, agency, or other governmental  
21 body conducting a hearing which could result in loss of  
22 licensure or professional censure, ~~and the~~.

23 "(7) The Alabama Ethics Commission.

24 "~~(e)~~ Any other provision of this section to the  
25 contrary notwithstanding, ~~a majority of a quorum of the~~  
26 ~~members participating in any given meeting shall be physically~~  
27 ~~present at the location noticed and called for the meeting in~~

1 ~~order to conduct any business or deliberation, and only those~~  
2 ~~members who are physically present may participate in an~~  
3 ~~executive session of the governmental body.~~

4 ~~"(f)~~ (e) Any vote taken at a meeting utilizing the  
5 equipment contemplated by subsection (a) shall be taken as a  
6 roll call vote that allows each participant to vote  
7 individually in a manner audible to all persons participating  
8 or present at the physical location provided for in subsection  
9 (b).

10 ~~"(g) No member utilizing this section~~ (f) A member  
11 participating in a meeting by means provided by this section  
12 ~~shall~~ may not claim any form of reimbursement for expenses  
13 relating to that meeting, including mileage and per diem.

14 "(g) If the electronic communications fail or are in  
15 any way interrupted during a meeting otherwise in compliance  
16 with this chapter, that failure shall not be grounds to  
17 challenge any action taken during the meeting.

18 "(h) Any governmental body comprised of members from  
19 two or more counties with specific statutory or constitutional  
20 authority to meet via electronic means under a procedure  
21 different than that set forth in this section may ~~continue to~~  
22 operate under the requirements of that specific authority or  
23 may adopt a resolution opting to come under the requirements  
24 of this section."

25 Section 2. Section 36-25A-5.2 is added to the Code  
26 of Alabama 1975, to read as follows:

27 §36-25A-5.2.

1           (a) Any governmental body as defined in Section  
2 36-25A-2 that is of a county or a municipality or is an entity  
3 established by or whose members are appointed by a county or  
4 municipality may allow participation in a meeting of that  
5 governmental body by means of telephone conference, video  
6 conference, or other similar communications equipment that  
7 allows all participants to hear one another at the same time;  
8 provided, that both of the following are fulfilled:

9           (1) No less than a quorum of the members of the  
10 governmental body are physically present at the physical  
11 location required by subsection (d).

12           (2) The members of the body participating by  
13 electronic means as provided in this section are unable to be  
14 physically present at the meeting due to illness.

15           (b) Participation by electronic means as authorized  
16 in this section shall constitute presence in person at the  
17 meeting for all purposes, except for the establishment of a  
18 quorum.

19           (c) At least 45 days before the first meeting that a  
20 governmental body uses electronic means of communication as  
21 authorized by this section, the body shall adopt an electronic  
22 meeting policy detailing the procedures and communications  
23 equipment that will be used, how the public may access the  
24 meeting, and how voting will be conducted.

25           (d) Each meeting in which members of a governmental  
26 body are participating by electronic means as authorized in  
27 this section shall be held at a physical location available

1 for persons wishing to be physically present, at which any  
2 interested member of the public shall be able to hear all  
3 persons who are participating remotely.

4 (e) Any vote taken at a meeting utilizing the  
5 equipment authorized by subsection (a) shall be taken as a  
6 roll call vote that allows each participant to vote  
7 individually in a manner audible to all persons participating  
8 or present at the physical location provided for in subsection  
9 (d).

10 (f) A member participating in a meeting by  
11 electronic means as provided by this section may not claim any  
12 form of reimbursement for expenses relating to that meeting,  
13 including mileage.

14 Section 3. This act shall become effective on the  
15 first day of the third month following its passage and  
16 approval by the Governor, or its otherwise becoming law.