

The House Committee on Ways and Means offers the following substitute to SB 402:

A BILL TO BE ENTITLED  
AN ACT

1 To enact the "Achieving Connectivity Everywhere (ACE) Act"; to amend Titles 32, 34, 36,  
2 44, 46, and 50 of the Official Code of Georgia Annotated, relating to highways, bridges, and  
3 ferries, labor and industrial relations, local governments, property, public utilities and public  
4 transportation, and state government, respectively, so as to provide for planning, deployment,  
5 and incentives of broadband services and other emerging communications technologies  
6 throughout the state; to provide for the Department of Transportation to take certain actions  
7 to enable the rights of way of interstate highways to be used for the deployment of broadband  
8 services and other emerging communications technologies; to provide for definitions; to  
9 require a comprehensive plan of a local government; to specifically authorize electric  
10 membership corporations and their affiliates to provide emerging communications  
11 technologies; to provide certain requirements and limitations on such authorization; to  
12 authorize certain partnerships; to amend the "Rural Telephone Cooperative Act" so as to  
13 specifically authorize cooperatives to provide emerging communications technologies and  
14 revise provisions related to services which they may provide; to change the short title of the  
15 Act and the declaration of purpose; to change provisions relating to the powers, names,  
16 membership, and formation of cooperatives; to change certain provisions relating to foreign  
17 corporations, to construction standards, and to change interconnection of certain lines,  
18 facilities, or systems; to specify the jurisdiction of the Public Service Commission; to revise  
19 the definition of "employer" as it relates to cooperatives; to change certain provisions relating  
20 to certain donations; to provide for certain powers, duties, and responsibilities of certain state  
21 departments and authorities relative to the deployment of broadband services and other  
22 emerging communications technologies; to change certain definitions relative to the  
23 "OneGeorgia Authority Act" to include broadband services; to change certain provisions  
24 related to the board of directors of the OneGeorgia Authority; to provide for the certain  
25 policies and programs, including a grant program, for the deployment of broadband services  
26 and other emerging communications technologies throughout the state; to provide for the  
27 promulgation of certain rules and regulations; to require the development and publication of  
28 a map; to provide for legislative findings and declarations; to provide uniformity as to rates

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29 and nonexclusive access for certain communications services providers within certain public  
 30 rights of way; to provide for certain audits and reports; to provide for applicability; to  
 31 provide for short titles; to provide for related matters; to provide for an effective date; to  
 32 repeal conflicting laws; and for other purposes.

33 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

34 **PART I**  
 35 **SECTION 1-1.**

36 This Act shall be known and may be cited as the "Achieving Connectivity Everywhere  
 37 (ACE) Act."

38 **PART II**  
 39 **SECTION 2-1.**

40 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,  
 41 is amended in Code Section 32-2-2, relating to powers and duties of the Department of  
 42 Transportation generally, by revising paragraphs (18) and (19) of subsection (a) and by  
 43 adding a new paragraph to read as follows:

44 "(18)(A) Subject to general appropriations and any provisions of Chapter 5 of this title  
 45 to the contrary notwithstanding, the department is authorized within the limitations  
 46 provided in subparagraph (B) of this paragraph to provide to municipalities, counties,  
 47 authorities, and state agencies financial support by contract for clearing, dredging, or  
 48 maintaining free from obstructions and for the widening, deepening, and improvement  
 49 of the ports, seaports, or harbors of this state.

50 (B)(i) Municipalities, counties, authorities, or state agencies may, by formal  
 51 resolution, apply to the department for financial assistance provided by this  
 52 paragraph.

53 (ii) The department shall review the proposal and, if satisfied that the proposal is in  
 54 accordance with the purposes of this paragraph, may enter into a contract for  
 55 expenditure of funds.

56 (iii) The time of payment and any conditions concerning such funds shall be set forth  
 57 in the contract.

58 (C) In addition to subparagraph (A) of this paragraph and subject to general  
 59 appropriations for such purposes, the department with its own forces or by contract may

60 clear, dredge, or maintain free from obstruction and may widen, deepen, and improve  
 61 the ports, seaports, or harbors of this state; ~~and~~

62 (19) Code Sections 32-3-1 and 32-6-115 notwithstanding, the department may by  
 63 contract grant to any rapid transit authority created by the General Assembly, under such  
 64 terms and conditions as the department may deem appropriate, the right to occupy or  
 65 traverse a portion of the right of way of any road on the state highway system by or with  
 66 its mass transportation facilities. Furthermore, the department may by contract lease to  
 67 the rapid transit authority, under such terms and conditions as the department may deem  
 68 appropriate, the right to occupy, operate, maintain, or traverse by or with its mass  
 69 transportation facilities any parking facility constructed by the department.  
 70 Notwithstanding Code Section 48-2-17, all net revenue derived from the lease shall be  
 71 utilized by the department to offset the cost of constructing any parking facility.  
 72 Regardless of any financial expenditures by the rapid transit authority, no right of use or  
 73 lease granted under this paragraph shall merge into or become a property interest of the  
 74 rapid transit authority. Upon the transfer of the title of the mass transportation facilities  
 75 to private ownership or upon the operation of the rapid transportation facilities for the  
 76 financial gain of private persons, such rights granted by the department shall  
 77 automatically terminate and all rapid transportation facilities shall be removed from the  
 78 rights of way of the state highway system; and

79 (20) The department, in consultation with the Georgia Technology Authority, shall have  
 80 the authority to plan for, establish, and implement a long-term policy with regard to the  
 81 use of the rights of way of the interstate highways and state owned roads for the  
 82 establishment, development, and maintenance of the deployment of broadband services  
 83 and other emerging communications technologies throughout the state by public or  
 84 private providers, or both. The department shall be authorized to promote and encourage  
 85 the use of such rights of way of the interstate highways and state owned roads for such  
 86 purposes to the extent feasible and prudent. All net revenues from the use, lease, or other  
 87 activities in such rights of way in excess of any project costs, that are not subject to the  
 88 jurisdiction of the Federal Highway Administration or that are not otherwise restricted  
 89 by any federal laws, rules, or regulations, shall be paid into the general fund of the state  
 90 treasury subject to any restrictions imposed by the Federal Highway Administration. It  
 91 is the intention of the General Assembly, subject to the appropriation process, that a  
 92 portion of the amount so deposited into the general fund of the state treasury be  
 93 appropriated each year to a state grant program to be administered by the Department of  
 94 Community Affairs as provided in Article 5 of Chapter 39 of Title 50 to be used to  
 95 promote and provide broadband services throughout the state."

96 **PART III**

97 **SECTION 3-1.**

98 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
99 by adding a new Code section to read as follows:

100 "36-70-6.

101 (a) As used in this Code section, the terms 'broadband services' and 'broadband services  
102 provider' shall have the same meaning as provided in Code Section 50-39-1.

103 (b) The governing bodies of municipalities and counties shall provide in any  
104 comprehensive plan for the promotion of the deployment of broadband services by  
105 broadband services providers."

106 **SECTION 3-2.**

107 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
108 in Code Section 50-8-7.1, relating to general powers and duties of the Department of  
109 Community Affairs, by revising paragraph (1) of subsection (b) as follows:

110 "(1) As part of such minimum standards and procedures, the department shall establish  
111 minimum elements which shall be addressed and included in comprehensive plans of  
112 local governments which are prepared as part of the coordinated and comprehensive  
113 planning process, provided that such minimum elements shall include the promotion of  
114 the deployment of reasonable and cost-effective access to broadband services by  
115 broadband services providers. As used in this paragraph, the terms 'broadband services'  
116 and 'broadband services provider' shall have the same meaning as provided in Code  
117 Section 50-39-1;"

118 **PART IIIA**

119 **SECTION 3A-1.**

120 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public  
121 transportation, is amended by revising Code Section 46-3-200, relating to purposes of electric  
122 membership corporations, as follows:

123 "46-3-200.

124 An electric membership corporation may serve any one or more of the following purposes:

125 (1) To furnish electrical energy and service;

126 (2) To assist its members in the efficient and economical use of energy;

127 (3) To engage in research and to promote and develop energy conservation and sources  
128 and methods of conserving, producing, converting, and delivering energy; and

129 (4) To provide and operate emerging communications technologies as provided in  
 130 Article 7 of Chapter 5 of this title; and  
 131 ~~(4)~~(5) To engage in any lawful act or activity necessary or convenient to effect the  
 132 foregoing purposes."

### 133 SECTION 3A-2.

134 Said Title 46 is further amended by revising Code Section 46-5-221, relating to definitions,  
 135 as follows:

136 "46-5-221.

137 As used in this article, the term:

138 (1) 'Affiliate' means another person which controls, is controlled by, or is under common  
 139 control with such person.

140 (2) 'Attachment' means the connection or fastening of a wire or cable by a provider of  
 141 emerging communications technologies to a utility pole.

142 (3) 'Assigned area' shall have the same meaning as provided in Code Section 46-3-3.

143 (1) 'Broadband ~~service~~ services' means a wired or wireless terrestrial service that consists  
 144 of the capability to transmit at a rate not less than 200 kilobits per second in either the  
 145 upstream or the downstream direction and in combination with such service ~~provide~~  
 146 provides either:

147 (A) Access to the Internet; or

148 (B) Computer processing, information storage, or protocol conversion.

149 For the purposes of this article, broadband ~~service~~ services shall not include any  
 150 information content or service applications provided over such access ~~service~~ services nor  
 151 any intrastate service that was subject to a tariff in effect as of September 1, 2005.

152 (1.1) 'Electric membership corporation' or 'EMC' means an electric membership  
 153 corporation organized under this title or any prior electric membership corporation law  
 154 of this state, or a corporation which elected, in accordance with the provisions thereof,  
 155 to be governed by Ga. L. 1937, p. 644, the 'Electric Membership Corporation Act.'

156 (1.2) 'Emerging communications technologies' means broadband services, VoIP, IP  
 157 enabled services, wireless services, and all facilities and equipment associated therewith.

158 (1.3) 'IP enabled services' means any service, capability, functionality, or application that  
 159 enables an end user to send or receive a communication in existing Internet Protocol  
 160 format, or any successor format, regardless of whether the communication is voice, data,  
 161 or video.

162 (1.4) 'Utility pole' means a pole or similar structure that is used in whole or in part for  
 163 electric distribution by an EMC or an affiliate thereof or by a local governing authority  
 164 or an affiliate thereof.

165 (2) 'VoIP' means Voice over Internet Protocol services offering real-time multidirectional  
166 voice functionality utilizing any Internet protocol.

167 (3) 'Wireless ~~service~~ services' means:

168 (A) Commercial ~~commercial~~ mobile radio service carried on between mobile stations  
169 or receivers and land stations and by mobile stations communicating among  
170 themselves; or

171 (B) Commercial fixed radio service carried on between or among land stations or  
172 receivers."

173 **SECTION 3A-3.**

174 Said Title 46 is further amended by revising Code Section 46-5-222, relating to commission  
175 has no authority over setting of rates or terms and conditions for the offering of broadband  
176 service, voice over Internet protocol, or wireless service, and limitations, as follows:

177 "46-5-222.

178 (a) The Public Service Commission shall not have any jurisdiction, right, power, authority,  
179 or duty to impose any requirement or regulation relating to the setting of rates or terms and  
180 conditions for the offering of broadband ~~service~~ services, VoIP, or wireless services.

181 (b) This Code section shall not be construed to affect:

182 (1) State laws of general applicability to all businesses, including, without limitation,  
183 consumer protection laws and laws relating to restraint of trade;

184 (2) Any authority of the Public Service Commission with regard to consumer  
185 complaints; or

186 (3) Any authority of the Public Service Commission to act in accordance with federal  
187 laws or regulations of the Federal Communications Commission, including, without  
188 limitation, jurisdiction granted to set rates, terms, and conditions for access to unbundled  
189 network elements and to arbitrate and enforce interconnection agreements.

190 (c) Except as otherwise expressly provided in this Code section, nothing in this ~~Code~~  
191 ~~section~~ article shall be construed to restrict or expand any other authority or jurisdiction of  
192 the Public Service Commission."

193 **SECTION 3A-4.**

194 Said Title 46 is further amended by adding three new Code sections to read as follows:

195 "46-5-223.

196 (a)(1) Except as provided in paragraph (3) of this subsection, an EMC that obtains a  
197 certificate of authority issued pursuant to Code Section 46-5-163 shall be authorized to  
198 provide and operate emerging communications technologies within such EMC's assigned  
199 area and within a five-mile radius thereof.

200 (2) Except as provided in paragraph (3) of this subsection, an EMC shall be authorized  
 201 to create an affiliate that shall be authorized to provide and operate emerging  
 202 communications technologies within such EMC's assigned area and within a five-mile  
 203 radius thereof, provided that such affiliate obtains a certificate of authority issued  
 204 pursuant to Code Section 46-5-163.

205 (3) An EMC or an affiliate of such EMC shall not be authorized to provide or operate  
 206 emerging communications technologies outside a five-mile radius outside of such EMC's  
 207 assigned area unless such provision or operation of emerging communications  
 208 technologies is pursuant to a partnership agreement with another EMC pursuant to  
 209 subsection (c) of this Code section.

210 (b) An EMC authorized under subsection (a) of this Code section to provide and operate  
 211 emerging communications technologies shall be authorized to apply for, accept, repay, and  
 212 utilize loans, grants, and other financing from the federal government, this state, or any  
 213 department or agency thereof, or from any other public or private party, in order to provide  
 214 funding to assist the EMC or an affiliate of such EMC in the planning, engineering,  
 215 construction, extension, operation, repair, and maintenance of emerging communications  
 216 technologies.

217 (c) An EMC shall be authorized to enter into a partnership with another EMC or with a  
 218 provider of emerging communications technologies to provide and operate emerging  
 219 communications technologies.

220 46-5-224.

221 No cross-subsidization shall be permitted between an EMC's natural gas activities, an  
 222 EMC's electricity services, and the provision or operation of emerging communications  
 223 technologies by such EMC or through an affiliate of such EMC. Any EMC that provides  
 224 or operates emerging communications technologies shall:

225 (1) Ensure that cross-subsidizations do not occur between the electricity services of an  
 226 EMC, the gas activities of its EMC gas affiliate, and the emerging communications  
 227 technologies it or its affiliate provides;

228 (2) Fully allocate all electricity activities costs, gas activities costs, or emerging  
 229 communications technologies activities costs, including costs for any shared services,  
 230 between the EMC's electricity activities, the gas activities of its EMC gas affiliate, and  
 231 the EMC's emerging communications technologies activities, in accordance with the  
 232 applicable uniform system of accounts and generally accepted accounting principles that  
 233 are applicable to EMCs under either federal or state laws, rules, or regulations;

234 (3) Not charge any costs of the EMC's electricity activities or any costs of the gas  
 235 activities of its EMC gas affiliate to the emerging communications technologies  
 236 customers of such EMC;

237 (4) Not charge any costs of the EMC's emerging communications technologies activities  
 238 to the EMC's electricity activities or its EMC gas affiliate's activities; and

239 (5) Not, for the protection and privacy of customer information, release any proprietary  
 240 customer information about any of such EMC's emerging communications technologies  
 241 customers to its electricity division, affiliate, or subsidiary or its EMC gas affiliate  
 242 without obtaining prior verifiable authorization from such customers.

243 46-5-225.

244 Nothing in this article shall authorize an EMC or any other provider of emerging  
 245 communications technologies to provide cable television or video service without first  
 246 obtaining a state or local cable or video franchise."

### 247 **PART IIIB**

#### 248 **SECTION 3B-1.**

249 Said Title 46 is further amended by revising Code Section 46-5-60, relating to the short title  
 250 of the Rural Telephone Cooperative Act, as follows:

251 "46-5-60.

252 This part shall be known and may be cited as the '~~Rural~~ Telephone Cooperative Act.'

#### 253 **SECTION 3B-2.**

254 Said Title 46 is further amended by revising Code Section 46-5-61, relating to declaration  
 255 of purpose related to the Rural Telephone Cooperative Act, as follows:

256 "46-5-61.

257 Cooperative nonprofit corporations may be organized under this part for the purpose of  
 258 furnishing telephone service ~~in rural areas~~ to the widest practicable number of users ~~of such~~  
 259 ~~service.~~ Such cooperative nonprofit corporations may also furnish emerging  
 260 communications technologies in addition to furnishing telephone service."

#### 261 **SECTION 3B-3.**

262 Said Title 46 is further amended by revising Code Section 46-5-62, related to definitions, as  
 263 follows:

264 "46-5-62.

265 As used in this part, the term:



- 266 (1) 'Cooperative' means any corporation organized under this part or which becomes  
 267 subject to this part.
- 268 (2) 'Emerging communications technologies' shall have the same meaning as provided  
 269 in Code Section 46-5-221.
- 270 (3) 'IP enabled services' shall have the same meaning as provided in Code  
 271 Section 46-5-221.
- 272 ~~(2)~~(4) 'Person' means any natural person, firm, association, corporation, business trust,  
 273 or partnership.
- 274 ~~(3)~~(5) 'Rural area' means any area within this state which is ~~located outside~~:
- 275 (A) ~~The~~ Is located outside the boundaries of an incorporated or unincorporated city,  
 276 town, village, or borough having a population in excess of 1,500 inhabitants according  
 277 to the last preceding federal census; ~~and~~
- 278 (B) ~~Any~~ Is located outside any suburban or populated area contiguous to the  
 279 boundaries of any such city, town, village, or borough, which area has a common  
 280 economic, social, or administrative interest with any such city, town, village, or  
 281 borough;
- 282 (C) Has at any time on or after January 1, 1950:
- 283 (i) Been located outside the boundaries of an incorporated or unincorporated city,  
 284 town, village, or borough having a population in excess of 1,500 inhabitants  
 285 according to the last preceding federal census; or
- 286 (ii) Been located outside any suburban or populated area contiguous to the  
 287 boundaries of any such city, town, village, or borough, which area has a common  
 288 economic, social, or administrative interest with any such city, town, village, or  
 289 borough; or
- 290 (D) Is located inside any area that was being serviced by a cooperative on January 1,  
 291 2018.
- 292 ~~(4)~~(6) 'Telephone company' means any natural person, firm, association, corporation,  
 293 business trust, partnership, cooperative nonprofit membership corporation, or limited  
 294 dividend or mutual association owning, leasing, or operating any line, facility, or system  
 295 used in the furnishing of telephone service within this state.
- 296 ~~(5)~~(7) 'Telephone service' means any communication service whereby voice  
 297 communication through the use of electricity and wire connections between the  
 298 transmitting and receiving apparatus is the principal intended use thereof. This term shall  
 299 include all telephone lines, facilities, or systems used in the rendition of such service.
- 300 (8) 'VoIP' shall have the same meaning as provided in Code Section 46-5-221.
- 301 (9) 'Wireless services' shall have the same meaning as provided in Code  
 302 Section 46-5-221."

303 **SECTION 3B-4.**

304 Said Title 46 is further amended by revising Code Section 46-5-63, relating to powers of  
 305 cooperatives generally, as follows:

306 "46-5-63.

307 A cooperative shall have power:

308 (1) To sue and be sued in its corporate name;

309 (2) To have an initial existence for a term of 50 years with right of renewal for one or  
 310 more like terms unless a shorter term is stated in the articles of incorporation;

311 (3) To adopt a corporate seal and alter the same;

312 (4) To furnish, improve, and expand telephone service in rural areas to its members, to  
 313 governmental agencies and political subdivisions, and to other persons not in excess of  
 314 10 percent of the number of its members; provided, however, that, without regard to this  
 315 10 percent limitation, telephone service may be made available by a cooperative through  
 316 interconnection of facilities to any number of subscribers of other telephone systems and  
 317 through pay stations to any number of users; provided, further, that a cooperative which  
 318 acquires existing telephone facilities in rural areas may continue service to persons, not  
 319 in excess of 40 percent of the number of its members, who are already receiving service  
 320 from such facilities without requiring such persons to become members; but such persons  
 321 may become members upon such terms as may be prescribed in the bylaws; provided,  
 322 further, that no cooperative shall furnish any telephone service in any area or territory  
 323 professed to be served by any other telephone company unless such telephone company  
 324 is unable or unwilling to furnish or extend reasonably adequate telephone service in such  
 325 area or territory;

326 (4.1) To furnish, improve, and expand emerging communications technologies. Such  
 327 emerging communications technologies may be furnished separately from telephone  
 328 service or in conjunction with telephone service and may be furnished in areas that are  
 329 the same or in areas that are different from those to which the cooperative furnishes  
 330 telephone service; provided, however, that none of the costs of providing emerging  
 331 communications technologies shall be eligible for recovery from the Universal Access  
 332 Fund provided for in Code Section 46-5-167;

333 (5) To construct, purchase, lease as lessee, or otherwise acquire; to improve, expand,  
 334 install, equip, maintain, and operate; and to sell, assign, convey, lease as lessor, mortgage,  
 335 pledge, or otherwise dispose of or encumber telephone communications lines, facilities,  
 336 systems, lands, buildings, structures, plants, equipment, exchanges, and any other real or  
 337 personal property, whether tangible or intangible, which shall be deemed necessary,  
 338 convenient, or appropriate to accomplish the purpose for which the cooperative is  
 339 organized, provided that no cooperative shall construct, purchase, lease as lessee, take,

340 receive, or otherwise acquire, improve, expand, install, equip, maintain, or operate any  
 341 telephone lines, facilities, systems, lands, buildings, structures, plants, equipment,  
 342 exchanges, or any other real or personal property, whether tangible or intangible, within  
 343 (A) The boundaries of any incorporated or unincorporated city, town, village, or borough  
 344 within this state having a population in excess of 1,500 inhabitants according to the last  
 345 preceding federal census, and (B) any suburban or populated area contiguous to the  
 346 boundaries of any such city, town, village, or borough having a common economic,  
 347 social, or administrative interest within any such city, town, village, or borough;

348 (6) To connect and interconnect its telephone ~~lines, facilities, or systems with other~~  
 349 ~~telephone such lines, facilities, or systems,~~ service or emerging communications  
 350 technologies with other telephone services or emerging communications technologies,  
 351 provided that any such connection or interconnection shall be as provided by and in  
 352 accordance with applicable federal and state law and shall be in such manner and  
 353 according to such specifications as will avoid interference with or hazards to such  
 354 existing ~~telephone lines, facilities, or systems~~ telephone service or emerging  
 355 communications technologies;

356 (7) To make its facilities available to persons furnishing telephone service or emerging  
 357 communications technologies within or without this state;

358 (8) To purchase, lease as lessee, or otherwise acquire; to use and exercise; and to sell,  
 359 assign, convey, mortgage, pledge, or otherwise dispose of or encumber franchises, rights,  
 360 privileges, licenses, and easements;

361 (9) To issue membership certificates and nonvoting shares of stock as provided in this  
 362 part;

363 (10) To borrow money and otherwise contract indebtedness; to issue or guarantee notes,  
 364 bonds, and other evidences of indebtedness; and to secure the payment thereof by  
 365 mortgage, pledge, deed of trust, security deed, or any other encumbrance upon any or all  
 366 of its then-owned or after-acquired real or personal property, assets, franchises, or  
 367 revenues;

368 (11) To construct, maintain, and operate telephone ~~lines~~ service or emerging  
 369 communications technologies along, upon, under, and across publicly owned lands and  
 370 public thoroughfares, including all roads, highways, streets, alleys, bridges, and  
 371 causeways, provided that the construction, maintenance, and operation of ~~telephone lines~~  
 372 telephone service or emerging communications technologies along, upon, under, and  
 373 across publicly owned lands and public thoroughfares, including all roads, highways,  
 374 streets, alleys, bridges, and causeways, shall be conditioned upon first having obtained  
 375 the consent and permission of the governmental authority affected and shall be under  
 376 such terms and conditions as may be promulgated by that governmental authority;

377 (12) To exercise the power of eminent domain in the manner provided by Title 22 for the  
 378 exercise of such power by other corporations constructing or operating telephone ~~lines,~~  
 379 ~~facilities, or systems~~ service;

380 (13) To become a member of other cooperatives or corporations or to own stock therein;

381 (14) To conduct its business and exercise its powers within or without this state;

382 (15) To adopt, amend, and repeal bylaws;

383 (16) To make any and all contracts necessary, convenient, or appropriate for the full  
 384 exercise of the powers granted by this part; and

385 (17) To do and perform any other acts and things and to have and exercise any other  
 386 powers which may be necessary, convenient, or appropriate to accomplish the purpose  
 387 for which the cooperative is organized."

388 **SECTION 3B-5.**

389 Said Title 46 is further amended by revising Code Section 46-5-65, relating to names of  
 390 cooperatives, as follows:

391 "46-5-65.

392 (a) The name of the cooperative shall include the words 'Telephone' ~~and or~~  
 393 'Communications,' or both, and shall include the word 'Cooperative,' and the abbreviation  
 394 'Inc.' unless:

395 (1) In an affidavit made by its president and vice-president and filed with the clerk of the  
 396 superior court of the county in which the principal office of the cooperative is located and  
 397 with the Secretary of State; or

398 (2) In an affidavit made by a person signing articles of incorporation, consolidation,  
 399 merger, or conversion, which relate to such cooperative, and presented concurrently with  
 400 the presentation for approval of any such articles to the superior court or a judge thereof  
 401 and filed with the Secretary of State

402 it shall appear that the cooperative desires to do business in another state and is or would  
 403 be precluded therefrom by reason of the inclusion of such words or either thereof in its  
 404 name.

405 (b) The name of the cooperative may, in addition to the words 'Telephone' or  
 406 'Communications,' or both, and the word 'Cooperative,' and the abbreviation 'Inc.', include  
 407 the words 'Emerging' or 'Technologies,' or both.

408 ~~(b)(c)~~ This Subsection (a) of this Code section shall not apply to any corporation which  
 409 becomes subject to this part by complying with Code Section 46-5-90 or which does  
 410 business in this state pursuant to Code Section 46-5-99 and which elects to retain a  
 411 corporate name which does not comply with this Code section."

412 **SECTION 3B-6.**

413 Said Title 46 is further amended by revising Code Section 46-5-79, relating to qualifications  
414 for membership to cooperative, certificate of membership, share certificates, and payment  
415 for shares of stock, as follows:

416 "46-5-79.

417 (a) Each incorporator of a cooperative shall be a member thereof, but no other person may  
418 become a member thereof unless he or she agrees to use telephone service or emerging  
419 communications technologies furnished by the cooperative when it is made available  
420 through its facilities. Membership in a cooperative shall be evidenced by a certificate of  
421 membership, which shall not be transferable, except as provided in the bylaws. The bylaws  
422 may prescribe additional qualifications and limitations in respect of membership, provided  
423 that ownership of shares of stock, if any are authorized, shall not be a condition of  
424 membership in the cooperative.

425 (b) If the issuance of shares of stock is provided for in the articles of incorporation,  
426 ownership of such shares shall be evidenced by share certificates. No share of stock shall  
427 be issued except for cash, or for property at its fair value, in an amount equal to the par  
428 value of such share of stock.

429 (c) Membership and share certificates shall contain such provisions, consistent with this  
430 part and the articles of incorporation of the cooperative, as shall be prescribed by its  
431 bylaws."

432 **SECTION 3B-7.**

433 Said Title 46 is further amended by revising Code Section 46-5-90, relating to conversion  
434 of telephone corporation into a cooperative and consolidation of telephone corporation into  
435 a cooperative, as follows:

436 "46-5-90.

437 (a) Any corporation organized under the laws of this state and furnishing or having the  
438 corporate power to furnish telephone service may be converted into a cooperative, and shall  
439 thereupon become subject to this part, with the same effect as if originally organized under  
440 this part, by complying with the following requirements:

- 441 (1) The proposition for the conversion of such corporation into a cooperative, along with  
442 proposed articles of conversion to give effect thereto, shall be submitted to a meeting of  
443 the members or stockholders of such corporation or, in case of a corporation having no  
444 members or stockholders, to a meeting of the incorporators of such corporation, the  
445 notice of which shall have attached thereto a copy of the proposed articles of conversion;
- 446 (2) If the proposition for the conversion of such corporation into a cooperative and the  
447 proposed articles of conversion, with any amendments, are approved by the affirmative

448 vote of not less than two-thirds of those members of such corporation voting thereon at  
 449 such meeting, or, if such corporation is a stock corporation, by the affirmative vote of the  
 450 holders of not less than two-thirds of those shares of the capital stock of such corporation  
 451 represented at such meeting and voting thereon, or, in the case of a corporation having  
 452 no members and no shares of its capital stock outstanding, by the affirmative vote of not  
 453 less than two-thirds of its incorporators, then articles of conversion in the form approved  
 454 shall be executed and acknowledged on behalf of such corporation by its president or  
 455 vice-president, and its seal shall be affixed thereto and attested by its secretary;

456 (3) The articles of conversion shall recite that they are executed pursuant to this part and  
 457 shall state:

458 (A) The name of the corporation and the address of its principal office prior to its  
 459 conversion into a cooperative;

460 (B) The statute or statutes under which it was organized;

461 (C) That such corporation elects to become a nonprofit ~~telephone~~ cooperative subject  
 462 to this part;

463 (D) Its name as a cooperative;

464 (E) The address of the principal office of the cooperative;

465 (F) The names and addresses of the directors of the cooperative; and

466 (G) The manner in which members, stockholders, or incorporators of such corporation  
 467 may or shall become members of the cooperative.

468 In addition, the articles of conversion may contain any provisions, not inconsistent with  
 469 this part, deemed necessary or advisable for the conduct of the business of the  
 470 cooperative, including the provisions for the issuance of nonvoting shares of stock as  
 471 provided for in Code Section 46-5-67. If the articles of conversion make provision for  
 472 the issuance of such shares of stock, they shall also state the manner in which members,  
 473 stockholders, or incorporators of such corporation may or shall become shareholders of  
 474 the cooperative. The president or vice-president executing such articles of conversion  
 475 shall make and annex thereto an affidavit stating that the provisions of this Code section  
 476 were duly complied with in regard to such articles; and

477 (4) The articles of conversion shall be deemed to be the articles of incorporation of the  
 478 cooperative, and an application for approval thereof, including such articles and the  
 479 prescribed affidavit, signed and acknowledged by the president or vice-president of the  
 480 corporation seeking to be converted into a cooperative, shall be presented to and  
 481 approved by the superior court, or the judge thereof, filed with the clerk of the superior  
 482 court of the county in which the principal office of the cooperative is to be located and  
 483 with the Secretary of State, and published in the same manner as an application for  
 484 original incorporation. The fee to be paid at the time of such filing shall be as described

485 in Code Section 46-5-100. Upon such filing, the conversion shall be deemed to be  
486 effective.

487 (b) Any two or more corporations organized under the laws of this state and furnishing or  
488 having the corporate power to furnish telephone service may, if otherwise permitted to  
489 consolidate by the laws of this state, consolidate into a cooperative subject to this part, with  
490 the same effect as if originally organized under this part, by complying with the following  
491 requirements:

492 (1) The proposition for the consolidation into a cooperative and the proposed articles of  
493 consolidation and conversion, with any amendments, shall be approved by each  
494 consolidating corporation in accordance with the statute or statutes under which it was  
495 organized and in accordance with the provisions of subsection (a) of this Code section;  
496 and

497 (2) The articles of consolidation and conversion in the form approved shall be executed,  
498 acknowledged, and sealed in the manner prescribed in subsection (a) of this Code section  
499 and in the statute or statutes under which the consolidating corporations were organized.  
500 The articles of consolidation and conversion shall state that they are executed pursuant  
501 to this part and such statute or statutes and that each consolidating corporation elects that  
502 the new corporation shall be a cooperative. In addition, the articles of consolidation and  
503 conversion shall contain all other information required by such statute or statutes and by  
504 paragraph (2) of subsection (a) of this Code section, and may contain any provisions not  
505 inconsistent with this part deemed necessary or advisable for the conduct of the business  
506 of the cooperative. The president or vice-president executing such articles of  
507 consolidation and conversion shall make and annex thereto an affidavit stating that the  
508 preceding provisions of this Code section and of the statute or statutes under which the  
509 consolidating corporations were organized were duly complied with in regard to such  
510 articles. The articles of consolidation and conversion shall be deemed to be the articles  
511 of incorporation of the cooperative, and an application for approval thereof, including  
512 such articles and the prescribed affidavits, signed and acknowledged by the president or  
513 vice-president of each consolidating corporation, shall be presented to and approved by  
514 the superior court, filed with the clerk of the superior court of the county in which the  
515 principal office of the cooperative is to be located and with the Secretary of State, and  
516 published in the same manner as an application for incorporation. The fees to be paid  
517 upon such filing shall be as prescribed in Code Section 46-5-100. Upon such filing, the  
518 consolidation and conversion shall be deemed to be effective."

519 **SECTION 3B-8.**

520 Said Title 46 is further amended by revising Code Section 46-5-96, relating to construction  
521 standards, as follows:

522 "46-5-96.

523 Construction of telephone ~~lines and facilities~~ service lines, facilities, and systems by a  
524 cooperative shall, as a minimum requirement, comply with the standards of the National  
525 Electrical Code in effect at the time of such construction and shall be in such manner and  
526 according to such specifications as will avoid interference with or hazards to existing  
527 telephone service lines, facilities, or systems."

528 **SECTION 3B-9.**

529 Said Title 46 is further amended by revising Code Section 46-5-99, relating to extension of  
530 telephone service into state by foreign nonprofit or cooperative corporations, Secretary of  
531 State as agent for foreign corporations, and rights and powers of foreign corporations, as  
532 follows:

533 "46-5-99.

534 Any foreign nonprofit or cooperative corporation furnishing or authorized to furnish  
535 telephone service and owning or operating ~~telephone lines or facilities~~ telephone service  
536 lines, facilities, or systems in a state adjacent to this state may construct or acquire  
537 extensions of ~~such lines, extensions of facilities, or extensions of systems for providing~~  
538 telephone service or emerging communications technologies, or both, in this state and  
539 operate ~~such extensions of such lines, extensions of such facilities, or extensions of such~~  
540 systems without complying with any statute of this state pertaining to the qualification of  
541 foreign corporations for the doing of business in this state. Before constructing or  
542 operating ~~such extensions of such lines, extensions of such facilities, or extensions of such~~  
543 systems, any such corporation shall designate the Secretary of State as its agent to accept  
544 service of process on its behalf, such designation to be effected by an instrument executed  
545 and acknowledged on its behalf by its president or ~~vice-president~~ vice-president under its  
546 seal attested by its secretary and filed with the Secretary of State. Thereafter, with respect  
547 to its operation in this state, such corporation shall have only the rights, powers, privileges,  
548 and immunities of a cooperative organized under this part. In the event any process is  
549 served upon the Secretary of State, he or she shall forthwith forward the same by registered  
550 or certified mail or statutory overnight delivery to such corporation at the address thereof  
551 specified in the instrument executed pursuant to this Code section."



552 **SECTION 3B-10.**

553 Said Title 46 is further amended by revising Code Section 46-5-102, relating to  
 554 interconnection of lines, facilities, or systems of cooperatives and other telephone companies,  
 555 as follows:

556 "46-5-102.

557 The telephone service lines, facilities, or systems of any cooperative or foreign corporation  
 558 doing business in this state pursuant to this part and the telephone service lines, facilities,  
 559 or systems of any other telephone company may, upon such terms and conditions as may  
 560 be mutually agreeable to such cooperative or foreign corporation and such telephone  
 561 company, be interconnected in order to provide continuous lines of communication for the  
 562 subscribers of any such cooperative, foreign corporation, or telephone company. In the  
 563 event any such cooperative or foreign corporation and any such telephone company shall  
 564 be unable to agree upon the terms and conditions of such interconnection, including  
 565 compensation therefor, the commission shall, upon the request of either party, establish  
 566 terms and conditions with respect to such interconnection which shall be reasonable and  
 567 nondiscriminatory."

568 **SECTION 3B-11.**

569 Said Title 46 is further amended by revising Code Section 46-5-103, relating to jurisdiction  
 570 of the Public Service Commission, as follows:

571 "46-5-103.

572 Cooperatives and foreign corporations doing business in this state pursuant to this part shall  
 573 be subject to the jurisdiction and supervision of the commission in the same manner and  
 574 in every respect as any other telephone company owning, leasing, or operating a public  
 575 telephone service ~~or telephone line~~ in this state; provided, however, that the commission  
 576 shall not have any jurisdiction, right, power, authority, or duty to impose any requirement  
 577 or regulation relating to the setting of rates or terms and conditions for the offering of  
 578 emerging communications technologies by a cooperative pursuant to this part."

579 **SECTION 3B-12.**

580 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,  
 581 is amended by revising paragraph (3) of Code Section 34-9-1, relating to definitions relative  
 582 to workers' compensation, as follows:

583 "(3) 'Employer' shall include the State of Georgia and all departments, instrumentalities,  
 584 and authorities thereof; each county within the state, including its school district; each  
 585 independent public school district; any municipal corporation within the state and any  
 586 political division thereof; any individual, firm, association, or public or private

587 corporation engaged in any business, except as otherwise provided in this chapter, and  
 588 the receiver or trustee thereof; any electric membership corporation organized under  
 589 Article 4 of Chapter 3 of Title 46 or other cooperative corporation engaged in rural  
 590 electrification, including electric refrigeration cooperatives; any ~~telephone~~ cooperative  
 591 organized under Part 3 of Article 2 of Chapter 5 of Title 46 or other cooperative or  
 592 nonprofit corporation engaged in furnishing telephone service or having the corporate  
 593 power to furnish telephone service; the legal representative of a deceased employer using  
 594 the service of another for pay; and any person who, pursuant to a contract or agreement  
 595 with an employer, provides workers' compensation benefits to an injured employee,  
 596 notwithstanding the fact that no common-law master-servant relationship or contract of  
 597 employment exists between the injured employee and the person providing the benefits.  
 598 If the employer is insured, this term shall include his or her insurer as far as applicable."

599

### SECTION 3B-13.

600 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by  
 601 revising Code Section 44-12-236.1, relating to donation of abandoned dividends or capital  
 602 credits by rural telephone cooperatives for certain purposes, as follows:

603 "44-12-236.1.

604 (a) As used in the Code section, the term:

605 (1) 'Area' means any county in which a ~~telephone~~ cooperative provides telephone service  
 606 or emerging communications technologies and any county adjacent thereto.

607 (2) '~~Telephone cooperative~~ Cooperative' shall have the same meaning as provided ~~for the~~  
 608 ~~term 'cooperative'~~ in Code Section 46-5-62.

609 (3) 'Emerging communications technologies' shall have the same meaning as provided  
 610 in Code Section 46-5-221.

611 ~~(3)~~(4) 'Telephone service' shall have the same meaning as provided ~~for~~ in Code  
 612 Section 46-5-62.

613 (b) All patronage dividends or capital credits held by a ~~telephone~~ cooperative that are  
 614 presumed abandoned pursuant to this article in a given calendar year may, in lieu of  
 615 payment of delivery to the commissioner pursuant to this article, be donated to a nonprofit  
 616 organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code  
 617 that supports education or economic development in the area if the ~~telephone~~ cooperative  
 618 has:

619 (1) Maintained for at least six months on the ~~telephone~~ cooperative's website or on a  
 620 public posting in the ~~telephone~~ cooperative's main office, a list of the names and last  
 621 known addresses of all owners of property held by the ~~telephone~~ cooperative that have  
 622 been presumed abandoned, together with instructions on how to claim such property; and

623 (2) Published in the legal organ in the county in which the ~~telephone~~ cooperative's main  
 624 office is located notice of the last date to claim property that has been presumed  
 625 abandoned. Such notice shall be published within three to six months prior to the last  
 626 date to claim the property and shall state that the names of the owners may be found at  
 627 the ~~telephone~~ cooperative's website or main office."

628 **PART IV**

629 **SECTION 4-1.**

630 Said Title 50 is further amended in Code Section 50-7-8, relating to additional powers of the  
 631 Board of Economic Development, by revising paragraphs (13) and (14) and by adding a new  
 632 paragraph to read as follows:

633 "(13) To enter into contracts with the Georgia Music Hall of Fame Authority for any  
 634 purpose necessary or incidental in assisting the Georgia Music Hall of Fame Authority  
 635 in carrying out or performing its duties, responsibilities, and functions; provided,  
 636 however, that all such assistance shall be performed on behalf of and pursuant to the  
 637 lawful purposes of the Georgia Music Hall of Fame Authority and not on behalf of the  
 638 department; and provided, further, that such assistance shall not include the authorization  
 639 of the issuance of any bonds or other indebtedness of the authority. The department may  
 640 undertake joint or complementary programs with the Georgia Music Hall of Fame  
 641 Authority, including the provision for joint or complementary services, within the scope  
 642 of their respective powers; ~~and~~

643 (14) To induce, by payment of state funds or other consideration, any agency or authority  
 644 assigned to the department for administrative purposes to perform the ~~agency~~ agency's  
 645 or authority's statutory functions; ~~and~~

646 (15) To promote the deployment of broadband services throughout the state, including  
 647 but not limited to, the deployment of broadband services in any facilities and  
 648 developments designated as a Georgia Broadband Ready Community Site. The board  
 649 and the Department of Economic Development shall have such additional powers and  
 650 duties related to the promotion of the deployment of broadband services and other  
 651 emerging communications technologies provided in Chapter 39 of this title."

652 **SECTION 4-2.**

653 Said Title 50 is further amended in Code Section 50-8-7.1, relating to general powers and  
 654 duties of the Department of Community Affairs, by adding a new subsection to read as  
 655 follows:

656 "(e) The department shall undertake such activities as may be necessary to carry out any  
 657 additional authority, duties, and responsibilities as authorized and described in Chapter 39  
 658 of title."

659 **SECTION 4-3.**

660 Said Title 50 is further amended in Code Section 50-25-4, relating to general powers of the  
 661 Georgia Technology Authority, by revising paragraphs (30) and (31) of subsection (a) and  
 662 by adding a new paragraph to read as follows:

663 "(30) To exercise any power granted by the laws of this state to public or private  
 664 corporations which is not in conflict with the public purpose of the authority; and  
 665 (31) To coordinate the establishment and administration of one or more programs to  
 666 increase economic, educational, and social opportunities for citizens and businesses  
 667 through the promotion of the deployment of broadband services and other emerging  
 668 communications technologies throughout the state and to exercise any power granted to  
 669 the authority in Chapter 39 of this title; and  
 670 ~~(31)~~(32) To do all things necessary or convenient to carry out the powers conferred by  
 671 this chapter."

672 **PART V**

673 **SECTION 5-1.**

674 Said Title 50 is further amended in Code Section 50-34-2, relating to definitions relative to  
 675 the "OneGeorgia Authority Act," by revising subparagraph (B) of paragraph (4) and by  
 676 revising paragraph (9) by deleting "and" at the end of subparagraph (F), by replacing the  
 677 period with "; and" at the end of subparagraph (G), and by adding a new subparagraph to  
 678 read as follows:

679 "(B) All costs of real property, fixtures, equipment, or personal property used in or in  
 680 connection with or necessary or convenient for any project or any facility or facilities  
 681 related thereto, including, but not limited to, cost of land, interests in land, options to  
 682 purchase, estates for years, easements, rights, improvements, water rights, and  
 683 connections for utility services, and infrastructure and connections for broadband  
 684 services as such term is defined in Code Section 50-39-1; the cost of fees, franchises,  
 685 permits, approvals, licenses, and certificates or the cost of securing any of the  
 686 foregoing; the cost of preparation of any application therefor; and the cost of all  
 687 fixtures, machinery, equipment, furniture, and other property used in connection with  
 688 or necessary or convenient for any project or facility;"

689 "(H) The acquisition, construction, improvement, or modification of any property, real  
 690 or personal, used to provide or used in connection with the provision of broadband  
 691 services which the authority has determined as necessary for the operation of the  
 692 industries which such property, real or personal, is to serve and which is necessary for  
 693 the public welfare, provided that, for the purposes of this subparagraph, the term  
 694 'broadband services' shall have the same meaning as provided in Code Section 50-39-1."

695 **SECTION 5-2.**

696 Said Title 50 is further amended by revising subsection (b) of Code Section 50-34-3, relating  
 697 to creation, membership, power, and authority of OneGeorgia Authority, as follows:

698 "(b) The board of directors of the authority shall consist of the Governor, who shall serve  
 699 as chair of the authority; the Lieutenant Governor, who shall serve as ~~vice~~ co-vice chair of  
 700 the authority; ~~the Speaker of the House of Representatives, who shall serve as co-vice chair~~  
 701 of the authority; the director of the Office of Planning and Budget, who shall serve as  
 702 secretary of the authority; the commissioner of community affairs; the commissioner of  
 703 economic development; and the commissioner of revenue."

704 **PART VI**

705 **SECTION 6-1.**

706 Said Title 50 is further amended by adding a new chapter to read as follows:

707 "CHAPTER 39

708 ARTICLE 1

709 50-39-1.

710 As used in this chapter, the term:

711 (1) 'Broadband network project' means any deployment of broadband services.

712 (2) 'Broadband services' means a wired or wireless terrestrial service that consists of the  
 713 capability to transmit at a rate of not less than 25 megabits per second in the downstream  
 714 direction and at least 3 megabits per second in the upstream direction to end users and in  
 715 combination with such service provides:

716 (A) Access to the Internet; or

717 (B) Computer processing, information storage, or protocol conversion.

718 (3) 'Broadband services provider' means any provider of broadband services or a public  
 719 utility or any other person or entity that builds or owns a broadband network project.

720 (4) 'Cooperative' shall have the same meaning as provided in Code Section 46-5-62.

- 721 (5) 'Emerging communications technologies' shall have the same meaning as provided  
 722 in Code Section 46-5-221.
- 723 (6) 'IP enabled services' shall have the same meaning as provided in Code Section  
 724 46-5-221.
- 725 (7) 'Local authority' shall have the same meaning as provided in Code Section  
 726 36-82-220.
- 727 (8) 'Location' means any residence, dwelling, home, business, or building.
- 728 (8.1) 'Performance bond' means a bond with good and sufficient surety or sureties for the  
 729 faithful performance of the contract and to indemnify the state for any damages  
 730 occasioned by a failure to perform the same within the prescribed timeframe. Such bond  
 731 shall be payable to, in favor of, and for the protection of the state.
- 732 (9) 'Political subdivision' means a county, municipal corporation, consolidated  
 733 government, or local authority.
- 734 (10) 'Qualified broadband provider' means:
- 735 (A) A cooperative, association, company, firm, corporation, partnership, political  
 736 subdivision of the state, or an electric membership corporation organized under  
 737 Article 4 of Chapter 3 of Title 46 that:
- 738 (i) Has, directly or indirectly, been providing broadband services to at least 1,000  
 739 locations; and
- 740 (ii) Has been conducting business in the state for at least three years with a  
 741 demonstrated financial, technical, and operational capability to operate a broadband  
 742 services network; or
- 743 (B) An electric membership corporation organized under Article 4 of Chapter 3 of  
 744 Title 46, a cooperative, or a political subdivision of the state that is able to demonstrate  
 745 financial, technical, and operational capability to operate a broadband services network.
- 746 (11) 'Unserved area' means a census block in which broadband services are not available  
 747 to 20 percent or more of the locations as determined by the Department of Community  
 748 Affairs pursuant to Article 2 of this chapter.
- 749 (12) 'VoIP' shall have the same meaning as provided in Code Section 46-5-221.
- 750 (13) 'Wireless services' shall have the same meaning as provided in Code Section  
 751 46-5-221.
- 752 50-39-2.
- 753 (a) The Georgia Technology Authority is authorized and directed to establish and  
 754 implement such policies and programs as are necessary to coordinate state-wide efforts to  
 755 promote and facilitate deployment of broadband services and other emerging

756 communications technologies throughout the state. Such policies and programs may  
757 include, but are not limited to, the following:

758 (1) A written state-wide broadband services deployment plan and the development of  
759 recommendations for the promotion and implementation of such a plan;

760 (2) Oversight and coordination of state efforts to apply for, utilize, and implement public  
761 and private grants, programs, designations, and other resources for the deployment of  
762 broadband services and other emerging communications technologies;

763 (3) Technical support and advisory assistance to state agencies, including, but not limited  
764 to, the Department of Community Affairs and the OneGeorgia Authority, in developing  
765 grant programs, designation programs, and other programs to promote the deployment  
766 of broadband services and other emerging communications technologies;

767 (4) A periodic analysis performed in conjunction with the State Properties Commission  
768 of any state assets, including, but not limited to, real property and structures thereon, that  
769 may be leased or otherwise utilized for broadband services deployment; and

770 (5) Coordination between state agencies, local governments, industry representatives,  
771 community organizations, and other persons that control access to resources, such as  
772 facilities and rights of way, that may be used for the deployment of broadband services  
773 and other emerging communications technologies, that apply for or receive federal funds  
774 for the deployment of broadband services and other emerging communications  
775 technologies, and that promote economic and community development.

776 (b) The Georgia Technology Authority shall submit copies of an annual report to the  
777 Lieutenant Governor, the Speaker of the House of Representatives, and the Governor  
778 regarding the policies and programs established by the authority as provided in  
779 subsection (a) of this Code section. Such report shall specifically include information as  
780 to the status of attainment of state-wide deployment of broadband services and other  
781 emerging communications technologies and industry and technology trends in broadband  
782 services and other emerging communications technologies. The Georgia Technology  
783 Authority shall also provide such report to all members of the General Assembly; provided,  
784 however, that the authority shall not be required to distribute copies of the report to the  
785 members of the General Assembly but shall notify the members of the availability of such  
786 report in the manner which it deems to be most effective and efficient. Furthermore, such  
787 report may be a part of or submitted in conjunction with the report required to be submitted  
788 by the Department of Community Affairs pursuant to Code Section 50-39-83.

789 (c) All state agencies shall cooperate with the Georgia Technology Authority and its  
790 designated agents by providing requested information to assist in the development and  
791 administration of policies and programs and the annual report provided for in this Code  
792 section.

793 (d) The Georgia Technology Authority shall promulgate any reasonable and necessary  
 794 rules and regulations to effectuate the provisions of this Code section.

795 50-39-3.

796 All information provided by a broadband services provider pursuant to this chapter shall  
 797 be presumed to be confidential, proprietary, a trade secret, as such term is defined in Code  
 798 Section 10-1-761, and subject to exemption from disclosure under state and federal law and  
 799 shall not be subject to disclosure under Article 4 of Chapter 18 of this title, except in the  
 800 form of a map where information that could be used to determine provider-specific  
 801 information about the network of the broadband services provider is not disclosed. Except  
 802 as otherwise provided in this chapter, such provider-specific information shall not be  
 803 released to any person other than to the submitting broadband services provider, the  
 804 Department of Community Affairs or the Georgia Technology Authority, agents designated  
 805 to assist in developing the map provided for in Article 2 of this chapter, employees of the  
 806 Department of Community Affairs or the Georgia Technology Authority, and attorneys  
 807 employed by or under contract with the Department of Community Affairs or the Georgia  
 808 Technology Authority without express permission of the submitting broadband services  
 809 provider. Such information shall be used solely for the purposes stated under this chapter.

810 ARTICLE 2

811 50-39-20.

812 The Department of Community Affairs shall determine those areas in the state that are  
 813 unserved areas and shall publish such findings.

814 50-39-21.

815 (a) On or before January 1, 2019, the Department of Community Affairs shall publish on  
 816 its website a map showing the unserved areas in the state.

817 (b) The Department of Community Affairs shall consult with the Federal Communications  
 818 Commission in determining if a map showing the unserved areas, as determined by the  
 819 Department of Community Affairs, exists. If on or before July 1, 2018, the Department of  
 820 Community Affairs determines that such a map does not exist then such a map shall be  
 821 created by the Department of Community Affairs or an agent designated by the Department  
 822 of Community Affairs. Such agent may include the Georgia Technology Authority or  
 823 other entities and individuals that are determined by the Department of Community Affairs  
 824 to possess the necessary prerequisites to assist the department in creating such a map. Any  
 825 map created by the Department of Community Affairs shall take into consideration any



826 information received pursuant to subsections (c) and (d) of this Code Section and Code  
 827 Section 50-39-22. If the Department of Community Affairs determines that such a map  
 828 does exist that was not created by the Department of Community Affairs or an agent  
 829 designated by the Department of Community Affairs, then its website may link to such  
 830 existing map in lieu of republishing such map.

831 (c) All local governments shall cooperate with the Department of Community Affairs and  
 832 any agent designated by the Department of Community Affairs by providing requested  
 833 information as to addresses and locations of broadband services and other emerging  
 834 communications technologies within their jurisdictions.

835 (d) The Department of Community Affairs and any agent designated by the Department  
 836 of Community Affairs may request information from all broadband services providers in  
 837 the state in developing a map or making the determination as to the percentage of locations  
 838 to which broadband services are not available.

839 50-39-22.

840 A broadband services provider or a political subdivision may file a petition with the  
 841 Department of Community Affairs along with data specifying locations which the  
 842 petitioner alleges should be designated differently than as shown on the map published on  
 843 the website of the Department of Community Affairs pursuant to Code Section 50-39-21.  
 844 Upon receipt of such petition and data, the Department of Community Affairs shall provide  
 845 notice of the petition on the Department of Community Affairs' website and shall notify  
 846 all broadband services providers furnishing broadband services in any census block in  
 847 which any such locations are positioned. Such broadband services providers shall have 45  
 848 days after the date such notice is sent to furnish information to the Department of  
 849 Community Affairs showing that the locations that are the subject of the petition currently  
 850 have broadband services available. The Department of Community Affairs shall determine  
 851 whether the designation of such locations should be changed and shall issue such  
 852 determination within 75 days of the date the notice is sent to the broadband services  
 853 provider.

854 ARTICLE 3

855 50-39-40.

856 (a) A political subdivision that has a comprehensive plan that includes the promotion of  
 857 the deployment of broadband services, as required pursuant to Code Sections 36-70-6 and  
 858 50-8-7.1, may apply to the Department of Community Affairs for certification as a  
 859 broadband ready community. The department shall by rules and regulations prescribe the

860 form and manner for making an application. The department shall prescribe by rules and  
861 regulations a process for public notice and comment on an application for a period of at  
862 least 30 days after such application is received, except that such process shall not apply to  
863 an application by a political subdivision that enacts a model ordinance developed by the  
864 department under Code Section 50-39-41.

865 (b) The department shall approve an application and certify a political subdivision as a  
866 broadband ready community if the department determines that such political subdivision  
867 has enacted an ordinance that complies with Code Section 50-39-41. If the process for  
868 public notice and comment applies to an application, the department shall, before  
869 approving such application, consider any public comments made regarding such  
870 application.

871 50-39-41.

872 (a) A political subdivision shall not be certified as a broadband ready community unless  
873 such political subdivision enacts an ordinance for reviewing applications and issuing  
874 permits related to broadband network projects that provides for all of the following:

875 (1) Appointing a single point of contact for all matters related to a broadband network  
876 project;

877 (2) Requiring such political subdivision to determine whether an application is complete  
878 and notifying the applicant about such determination in writing within a certain time  
879 period after receiving such application; provided, however, that any delay in the  
880 processing of an application that is outside the control of such political subdivision and  
881 that is directly caused by or attributable to a natural disaster, a state of emergency, a  
882 mandated federal review or approval, the receipt of multiple applications by the same or  
883 different applicants within a relatively short period of time, another political subdivision's  
884 review or approval, or through fault of the applicant shall not count toward the days  
885 allotted within such time period;

886 (3) If the political subdivision receives an application that is incomplete, requiring the  
887 written notification provided for under paragraph (2) of this subsection to specify in detail  
888 the required information that is incomplete;

889 (4) If such political subdivision does not make the written notification required under  
890 paragraph (2) of this subsection, requiring such political subdivision to consider an  
891 application to be complete;

892 (5) Within a certain time period after receiving an application that is complete, requiring  
893 such political subdivision to approve or deny such application and provide the applicant  
894 notification in writing of such approval or denial;

895 (6) That any fee imposed by such political subdivision to review an application, issue a  
 896 permit, or perform any other activity related to a broadband network project shall be  
 897 reasonable, cost based, and nondiscriminatory to all applicants; and

898 (7) Any other information or specifications as may be required by the department by  
 899 rules and regulations related to ensuring ready access to the public rights of way and  
 900 infrastructure.

901 (b) The department, with input from broadband services providers and local governments,  
 902 shall develop a model ordinance for the review of applications and the issuance of permits  
 903 related to broadband network projects that complies with subsection (a) of this Code  
 904 section that may be enacted by a political subdivision.

905 (c) If a political subdivision enacts an ordinance that differs from the model ordinance  
 906 developed by the department, the political subdivision shall, when applying for certification  
 907 under Code Section 50-39-40, provide the department with a written statement that  
 908 describes the ordinance enacted by such political subdivision and how such ordinance  
 909 differs from the model ordinance.

910 (d) After certification of a political subdivision as a broadband ready community, the  
 911 department shall continue to monitor such political subdivision's compliance with the  
 912 broadband ready community eligibility requirements provided in subsection (a) of this  
 913 Code section to ensure that the ordinance is still in effect and that such political  
 914 subdivision's actions are in conformance with such ordinance.

915 50-39-42.

916 A political subdivision that the department has certified as a broadband ready community  
 917 under Code Section 50-39-41 may be decertified by the department if it:

918 (1) Imposes an unreasonable or noncost based fee to review an application or issue a  
 919 permit for a broadband network project. Any application fee that exceeds \$100.00 shall  
 920 be considered unreasonable unless such political subdivision can provide documentation  
 921 justifying such fee based on a specific cost;

922 (2) Imposes a moratorium of any kind on the approval of applications or issuance of  
 923 permits for broadband network projects or on construction related to broadband network  
 924 projects;

925 (3) Discriminates among broadband services providers with respect to any action  
 926 described in this article or otherwise related to a broadband network project, including  
 927 granting access to public rights of way, infrastructure and poles, river and bridge  
 928 crossings, or any other physical assets owned or controlled by such political subdivision;  
 929 or

930 (4) As a condition for approving an application or issuing a permit for a broadband  
 931 network project, requires the applicant to:

932 (A) Provide any service or make available any part of the broadband network project  
 933 to such political subdivision; or

934 (B) Except for reasonable and cost based fees allowed, make any payment to or on  
 935 behalf of such political subdivision.

936 50-39-43.

937 (a) Upon the request of a broadband services provider, the department may decertify a  
 938 political subdivision as a broadband ready community if such political subdivision fails to  
 939 act in accordance with the ordinance required for certification under Code  
 940 Section 50-39-41, modifies such ordinance so that such ordinance no longer complies with  
 941 subsection (a) of Code Section 50-39-41, or violates any provision of Code Section  
 942 50-39-42.

943 (b) Upon a complaint that an application fee under an ordinance required for certification  
 944 under Code Section 50-39-41 is unreasonable, the department shall determine whether or  
 945 not such fee is reasonable. In the proceeding for making such determination, the political  
 946 subdivision shall have the burden of proving the reasonableness of any action undertaken  
 947 by such political subdivision as part of the application process and the reasonableness of  
 948 the costs of such actions.

949 50-39-44.

950 A broadband network project targeting industry development or construction of a new  
 951 building for which a political subdivision that has been certified as a broadband ready  
 952 community under Code Section 50-39-40 is seeking financing from the OneGeorgia  
 953 Authority, as provided for in Chapter 34 of this title, shall be given priority by the  
 954 OneGeorgia Authority.

955 50-39-45.

956 The department shall promulgate any reasonable and necessary rules and regulations to  
 957 effectuate the provisions of this article.

958 ARTICLE 4

959 50-39-60.

960 As used in this article, the term 'broadband services' means the provision of access to the  
 961 Internet or computer processing, information storage, or protocol conversion.

962 50-39-61.

963 In order to encourage economic development and attract technology enabled growth in  
964 Georgia, the Department of Community Affairs shall, with the assistance of the  
965 Department of Economic Development, create and administer the 'Georgia Broadband  
966 Ready Community Site Designation Program.' Such program shall designate facilities and  
967 developments that offer broadband services at a rate of not less than 1 gigabit per second  
968 in the downstream and the upstream direction to end users that can be accessed for  
969 business, education, health care, government, and other public purposes as a Georgia  
970 Broadband Ready Community Site.

971 50-39-62.

972 (a) The Department of Community Affairs or its designated agents shall evaluate the  
973 information submitted by applicants for designation as a Georgia Broadband Ready  
974 Community Site to confirm, based on the best available local, state, and federal broadband  
975 information, that at least 1 gigabit of broadband services is available within the facility or  
976 development.

977 (b) The Department of Economic Development shall promote the Georgia Broadband  
978 Ready Community Site Designation Program and shall promote the facilities and  
979 developments so designated as local community assets. Upon certification of a facility or  
980 development as a Georgia Broadband Ready Community Site, the Department of  
981 Community Affairs shall notify the Department of Economic Development so that the  
982 Department of Economic Development may provide standardized graphics and materials  
983 to the owner or owners of such facility or development and the county or municipal  
984 corporation in which such facility or development is located in order to promote the status  
985 of the site as a Georgia Broadband Ready Community Site.

986 50-39-63.

987 The Department of Community Affairs shall be authorized to adopt and promulgate such  
988 rules and regulations as may be reasonable and necessary to carry out the purposes of this  
989 article.

990 ARTICLE 5

991 50-39-80.

992 The General Assembly recognizes that access to broadband services in today's society is  
993 essential to everyday life. Access to broadband services is a necessary service as  
994 fundamental as electricity, gas, or phone service. There is a growing need for the

995 government of this state to provide the much needed infrastructure to the homes and  
996 businesses without access to broadband services due to their location in rural and other  
997 unserved areas. Furthermore, the General Assembly finds and declares that ensuring  
998 broadband services deployment will have a positive effect on education, health care, public  
999 safety, business and industry, government services, and leisure activities throughout the  
1000 entire state. The General Assembly also finds and declares that guaranteeing an equitable  
1001 deployment of broadband services throughout the state is a public necessity, one of the  
1002 basic functions of government, and a benefit to the entire state. Moreover, the General  
1003 Assembly finds and declares that it is in the best interest of the state and the persons who  
1004 live and work in the state to spend state funds through the establishment of a grant program  
1005 to ensure the creation of a state-wide foundation of broadband services infrastructure in  
1006 unserved areas of the state.

1007 50-39-81.

1008 (a) On or before July 1, 2019, the Department of Community Affairs shall develop the  
1009 'Georgia Broadband Deployment Initiative' to provide funding to qualified broadband  
1010 providers that request the least amount of money to offer broadband services in unserved  
1011 areas of the state. The goal of such program shall be to provide broadband services  
1012 coverage throughout the entire state. The grants awarded as a part of such program shall  
1013 reflect the state's share of the cost of the deployment of broadband services to unserved  
1014 areas as authorized by this article. Such grants shall be subject to the availability of  
1015 appropriations for the Georgia Broadband Deployment Initiative as may be expressly  
1016 provided by the General Assembly together with such other funds as may be available from  
1017 any public or private sources including, but not limited to, funds through the 'OneGeorgia  
1018 Authority Act' and the Georgia Environmental Finance Authority. The amount of any  
1019 grant awarded shall be reasonably related to the qualified broadband provider's expenses  
1020 of the deployment of broadband services. The grants awarded shall be used by the  
1021 qualified broadband services provider only for capital expenses and expenses directly  
1022 related to the purchase or lease of property or communications services or facilities,  
1023 including without limitation backhaul and transport, to facilitate the provision of broadband  
1024 services.

1025 (b) The department may use a request for proposal process in soliciting proposals from  
1026 qualified broadband providers and may also accept proposals from qualified broadband  
1027 providers through an open proposal process pursuant to established criteria. Qualified  
1028 broadband providers may submit solicited or unsolicited proposals, as may be applicable,  
1029 for one or more contiguous unserved areas in which such qualified broadband providers  
1030 are seeking to deploy broadband services; provided, however, that the department shall

1031 seek competing proposals for any unsolicited proposal received. Such proposals shall be  
 1032 evaluated and scored on the basis of criteria consistent with this article and other factors  
 1033 established by the department; provided, however, that the department shall not  
 1034 discriminate between different types of technology used to provide broadband services if  
 1035 such broadband services are each capable of transmitting data at the rates specified for each  
 1036 unserved area. The department shall consider the applicant's prior performance under a  
 1037 grant, if applicable.

1038 (c) The program shall consist of a minimum of five rounds of grants, one each year for five  
 1039 years. The department shall be authorized to extend the program for more than five years  
 1040 if unserved areas still exist in the state. The grants may be awarded for a project that  
 1041 includes more than one unserved area, provided that such unserved areas are contiguous.

1042 (d) The first round of grants shall be awarded when moneys are appropriated or grants or  
 1043 other funds are received to fund such awarding of the grant program.

1044 (e) Qualified broadband providers submitting proposals shall receive priority if such  
 1045 proposals to provide broadband services:

1046 (1) Include a proposed system design that is scalable to higher broadband speeds in the  
 1047 future;

1048 (2) Include elements of cooperation with or broadband services enhancement for  
 1049 businesses; industrial parks; education centers; hospitals and other health care facilities,  
 1050 such as telehealth facilities and emergency care facilities; government buildings; public  
 1051 safety departments; or other providers of public services;

1052 (3) Expand broadband services in an unserved area with a lower nonmilitary population  
 1053 than other unserved areas in the state;

1054 (4) Include an unserved area certified as a broadband ready community as provided in  
 1055 Article 3 of this chapter;

1056 (5) Include a monetary investment in the unserved areas in the proposal that is equal to  
 1057 or greater than the amount of money requested in such proposal, whether or not such  
 1058 investment is made solely by such qualified broadband provider or by such qualified  
 1059 broadband provider in conjunction with one or more local governments, one or more  
 1060 commercial or industrial entities, or any combination thereof; or

1061 (6) If the qualified broadband provider cooperates with the Department of Community  
 1062 Affairs in providing information requested by the department, pursuant to subsections (c)  
 1063 and (d) of Code Section 50-39-2, as applicable, in order to develop map or make the  
 1064 determination as to the percentage of locations to which broadband services are not  
 1065 available.

1066 (f) As part of the proposal process any qualified broadband provider submitting a proposal  
 1067 shall be required to disclose whether such qualified broadband provider is required under

1068 any federal law, rule, or regulation to provide broadband services to any of the unserved  
 1069 areas for which such proposal is submitted and whether any grants or other funding from  
 1070 the federal government, the state, or a local government to provide broadband services to  
 1071 any portion of such unserved area have been received by such qualified broadband  
 1072 provider.

1073 (g) The department shall not discriminate between different types of technology used to  
 1074 provide broadband services nor shall the department condition the award of any grant to  
 1075 specific requirements related to the qualified broadband provider's management of its  
 1076 broadband network project.

1077 (h) The department shall establish the criteria for determining proposal eligibility and any  
 1078 grant terms and conditions that are reasonable and necessary to ensure that the grant funds  
 1079 are utilized to provide broadband services to the unserved areas for which the grants are  
 1080 awarded; provided, however, that any qualified broadband provider receiving a grant under  
 1081 this article shall be required to agree:

1082 (1) Not to charge more for broadband services to customers in any unserved area for  
 1083 which it receives a grant than it does for the same or similar broadband services to  
 1084 customers in other areas of the state;

1085 (2) To serve 96 percent of any locations requesting broadband services in any unserved  
 1086 area for which it receives a grant;

1087 (3) To meet or exceed in any unserved area for which it receives a grant a minimum level  
 1088 of dependable service as established by the department;

1089 (4) That its plan to provide broadband services shall be substantially completed within  
 1090 the time period specified in the grant proposal; and

1091 (5) To provide a performance bond payable to, in favor of, and for the protection of the  
 1092 state that meets the performance bond qualifications established by the department.

1093 (i) In addition to the requirements and considerations provided in subsections (e), (f),  
 1094 and (g) of this Code section, the department shall evaluate proposals based on upstream and  
 1095 downstream speeds to end users, data cap limits, signal latency, reliability of the  
 1096 technology utilized, historic service issues in other areas served by the qualified broadband  
 1097 provider, and the length of time it will take to deploy the broadband services in the  
 1098 unserved area.

1099 (j) The department shall condition the release of any grant funds upon the substantial  
 1100 completion, as determined by the department, of the proposed broadband services  
 1101 deployment and upon confirmation of the level of service proposed in the grant proposal  
 1102 as demonstrated by operational testing. Once the grant funds have been released, the  
 1103 qualified broadband provider shall have ownership and control of the broadband network  
 1104 project built with such funds.



1105 50-39-82.

1106 The department shall ensure that the grant program complies with all applicable federal  
 1107 laws and rules and regulations of the Federal Communications Commission.

1108 50-39-83.

1109 (a)(1) On June 30, 2019, and on each June 30 thereafter, the Department of Community  
 1110 Affairs shall submit a report to the Lieutenant Governor, the Speaker of the House of  
 1111 Representatives, and the Governor on the program's progress in achieving the purposes  
 1112 of this article, including, at a minimum the status of any funded grant proposals and the  
 1113 number, amounts, and recipients of grants awarded. Such report may be a part of or  
 1114 submitted in conjunction with the report required to be submitted by the Georgia  
 1115 Technology Authority pursuant to Code Section 50-39-2.

1116 (2) The report required under paragraph (1) of this subsection shall be published on the  
 1117 website of the Department of Community Affairs.

1118 (b) The state auditor, on a periodic basis, but no less often than once every three years,  
 1119 shall conduct a performance audit of the grant program to examine and determine the  
 1120 program's economy, efficiency, and effectiveness and to provide an accounting of the funds  
 1121 of the grant program. The state auditor shall provide an audit report to the Lieutenant  
 1122 Governor, the Speaker of the House of Representatives, and the Governor by December 31  
 1123 of the year in which the audit was conducted.

1124 50-39-84.

1125 The Department of Community Affairs shall promulgate and enforce any reasonable and  
 1126 necessary rules and regulations to effectuate the provisions of this article.

1127 ARTICLE 6

1128 50-39-100.

1129 As used in this article, the term:

1130 (1) 'Advanced broadband services' means broadband service that consists of the  
 1131 capability to transmit at a rate of not less than 25 megabits per second in the downstream  
 1132 direction and at least 3 megabits per second in the upstream direction to end users.

1133 (2) 'Attachment' means the connection or fastening of a wire or cable by a  
 1134 communications services provider to a utility pole.

1135 (3) 'Authority' means any local authority, any local governing authority, any political  
 1136 subdivision providing retail electric service, any electric membership corporation

- 1137 established under Article 4 of Chapter 3 of Title 46 and any subsidiary thereof, and any  
 1138 cooperative and any subsidiary thereof.
- 1139 (4) 'Broadband services' means a wired or wireless terrestrial service that consists of the  
 1140 capability to transmit in either the upstream or the downstream direction to end users and  
 1141 in combination with such service provide:
- 1142 (A) Access to the Internet; or  
 1143 (B) Computer processing, information storage, or protocol conversion.
- 1144 (5) 'Collocate' or 'collocation' means to install, mount, maintain, modify, operate, or  
 1145 replace one or more communications facilities on, under, or within an existing wireless  
 1146 support structure or utility pole. The term shall not include the installation of a new  
 1147 utility pole or a new wireless support structure in a public right of way.
- 1148 (6) 'Communications facility' means that set of equipment and network components,  
 1149 including wires and cables, and associated facilities used by a communications services  
 1150 provider to facilitate communications services.
- 1151 (7) 'Communications services' means cable service as defined in 47 U.S.C.  
 1152 Section 522(6), as it existed on January 1, 2018; telecommunications service as defined  
 1153 in 47 U.S.C. Section 153(53), as it existed on January 1, 2018; information service as  
 1154 defined in 47 U.S.C. Section 153(24), as it existed on January 1, 2018; video service as  
 1155 defined in Code Section 36-76-2; wireless services; and broadband services.
- 1156 (8) 'Communications services provider' means a cable operator as defined in 47 U.S.C.  
 1157 Section 522(5), as it existed on January 1, 2018; a telecommunications carrier as defined  
 1158 in 47 U.S.C. Section 153(51), as it existed on January 1, 2018; a provider of information  
 1159 services as defined in 47 U.S.C. Section 153(24), as it existed on January 1, 2018; a video  
 1160 service provider; a wireless services provider; or a broadband services provider.
- 1161 (9) 'FCC rate' means the annual recurring rates permitted under rules and regulations  
 1162 adopted pursuant to 47 U.S.C. 224(d) by the Federal Communications Commission, as  
 1163 such existed on January 1, 2018.
- 1164 (10) 'Interstate highways' shall have the same meaning as provided in Code  
 1165 Section 32-1-3.
- 1166 (11) 'Law' means any federal, state, or local law, statute, common law, code, rule,  
 1167 regulation, order, resolution, or ordinance.
- 1168 (12) 'Local authority' shall have the same meaning as provided in Code  
 1169 Section 36-82-220.
- 1170 (13) 'Limited-access road' shall have the same meaning as provided in Code  
 1171 Section 32-1-3.
- 1172 (14) 'Local governing authority' means a county, municipal corporation, or consolidated  
 1173 government.

- 1174 (15) 'Person' means an individual, corporation, limited liability company, partnership,  
 1175 association, trust, or other entity or organization, including an authority.
- 1176 (16) 'Right of way' shall have the same meaning as provided in Code Section 32-1-3,  
 1177 except that the term shall not include interstate highways and shall not include  
 1178 limited-access roads.
- 1179 (17) 'Served area' means a census block that is not designated by the Department of  
 1180 Community Affairs as an unserved area.
- 1181 (18) 'Utility pole' means a pole or similar structure that is or may be used in whole or in  
 1182 part by or for wireline communications, electric distribution, lighting, traffic control,  
 1183 signage, or a similar function, or for the collocation of communications facilities. The  
 1184 term shall not include wireless support structures or electric transmission structures.
- 1185 (19) 'Video service provider' shall have the same meaning as provided in Code Section  
 1186 36-76-2.
- 1187 (20) 'Wireless services' shall have the same meaning as provided in Code  
 1188 Section 46-5-221.
- 1189 (21) 'Wireless services provider' means a person that provides wireless services.
- 1190 (22) 'Wireless support structure' means a freestanding structure, such as a monopole;  
 1191 tower, either guyed or self-supporting; billboard; or other existing or proposed structure  
 1192 designed to support or capable of supporting facilities that provide wireless services.  
 1193 Such term shall not include a utility pole or an electric transmission structure.
- 1194 50-39-101.
- 1195 (a) The provisions of this Code section shall only apply to activities of a communications  
 1196 services provider within a right of way.
- 1197 (b) An authority shall not enter into an exclusive arrangement with any person for use of  
 1198 a right of way for the construction, installation, maintenance, modification, operation,  
 1199 marketing, or replacement of communications facilities or the collocation of said  
 1200 communications facilities.
- 1201 (c) An authority, in the exercise of its administration and regulation related to the  
 1202 management of a right of way, shall be competitively neutral with regard to other similarly  
 1203 situated users of the right of way, and terms governing such authority's right of way shall  
 1204 not be unreasonable or discriminatory, and shall not violate any applicable law.
- 1205 (d) An authority may require a communications services provider to repair all damage to  
 1206 a right of way directly caused by the activities of such communications services provider,  
 1207 while occupying, installing, repairing, modifying, replacing, or maintaining  
 1208 communications facilities in the right of way, and to return such right of way to its  
 1209 functional equivalence before the damage pursuant to the competitively neutral, reasonable

1210 requirements and specifications of the authority. If the communications services provider  
 1211 fails to make such repairs required by the authority within 90 days after the receipt of  
 1212 written notice, the authority may effect those repairs and charge the applicable party the  
 1213 reasonable, documented cost of such repairs.

1214 50-39-102.

1215 (a)(1)(A)(i) The rates and fees charged by an authority in an unserved area for  
 1216 attachments and collocations to authority utility poles or authority wireless support  
 1217 structures by communications services providers to provide advanced broadband  
 1218 services shall be nondiscriminatory and shall not exceed the FCC rate. Such rates,  
 1219 terms, and conditions shall be effective for not less than ten years after such  
 1220 attachment or collocation.

1221 (ii) This subparagraph shall not apply to any attachment or collocation installed on  
 1222 or before June 30, 2018, or to any modifications, renewals, repairs, or replacements  
 1223 of any attachment or collocation installed on or before June 30, 2018.

1224 (B) For any attachments and collocations subject to the provisions of subparagraph (A)  
 1225 of this paragraph, all other terms and provisions of any authority agreement governing  
 1226 or affecting a communications services provider's attachments or collocations on such  
 1227 authority poles or such authority wireless support structures shall be fair, reasonable,  
 1228 and nondiscriminatory.

1229 (2)(A)(i) The rates and fees charged by an authority in a served area for attachments  
 1230 and collocations to authority utility poles or authority wireless support structures by  
 1231 communications services providers to provide advanced broadband services in such  
 1232 served area shall be nondiscriminatory regardless of the services provided by the  
 1233 authority or the communications services provider and shall not exceed the FCC rate.

1234 (ii) This subparagraph shall apply only:

1235 (I) If the authority is providing emerging communications technologies in such  
 1236 served area and a communications services provider other than the authority is  
 1237 providing advanced broadband services in such served area; and

1238 (II) To any attachment or collocation installed for communications services and to  
 1239 any modifications, renewals, repairs, or replacements of any such attachment or  
 1240 collocation in such served area; provided, however, that if the authority was  
 1241 providing any emerging communications technologies in such served area on or  
 1242 before January 1, 2018, such FCC rate shall only apply to such attachments and  
 1243 collocations or any modifications, renewals, repairs, or replacements of any such  
 1244 attachments or collocations installed on or after July 1, 2018.

1245 (B) For any attachments and collocations subject to the provisions of subparagraph (A)  
 1246 of this paragraph, all other terms and provisions of any authority agreement governing  
 1247 or affecting a communications services provider's attachments or collocations on such  
 1248 authority poles or such authority wireless support structures shall be fair, reasonable,  
 1249 and nondiscriminatory.

1250 (b) This Code section shall not constitute certification as provided in Section 224(c) of the  
 1251 Federal Communications Act of 1934, as amended, as it existed on January 1, 2018.

1252 (c) This Code section shall not apply to any attachment or collocation that is to utility  
 1253 poles, wireless support structures, electric transmission structures, or equipment of any type  
 1254 owned or controlled by an investor owned electric utility.

1255 50-39-103.

1256 This article shall become effective on January 1, 2019.

1257 **PART VII**  
 1258 **SECTION 7-1.**

1259 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 1260 without such approval.

1261 **SECTION 7-2.**  
 1262 All laws and parts of laws in conflict with this Act are repealed.