Senate Bill 402
By: Senators Gooch of the 51st, Cowsert of the 46th, Kennedy of the 18th, Miller of the 49th, Ginn of the 47th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

To enact the "Achieving Connectivity Everywhere (ACE) Act"; to amend Titles 32, 36, and 50 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries, local governments, and state government, respectively, so as to provide for planning, deployment, and incentives of broadband services and other emerging communications technologies throughout the state; to provide for the Department of Transportation to take certain actions to enable the rights of way of interstate highways to be used for the deployment of broadband services and other emerging communications technologies; to provide for definitions; to require a comprehensive plan of a local government to include the promotion of the deployment of broadband services; to provide for certain powers, duties, and responsibilities of certain state departments and authorities relative to the deployment of broadband services and other emerging communications technologies; to change certain definitions relative to the "OneGeorgia Authority Act" to include broadband services; to change certain provisions related to the board of directors of the OneGeorgia Authority; to provide for the certain policies and programs for the deployment of broadband services and other emerging communications technologies throughout the state; to provide for the promulgation of certain rules and regulations; to require the development and publication of a map; to provide for legislative findings and declarations; to provide for certain reports; to provide for applicability; to provide for a short title; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

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

SECTION 2-1.

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

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

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

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

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

(C) In addition to subparagraph (A) of this paragraph and subject to general appropriations for such purposes, the department with its own forces or by contract may clear, dredge, or maintain free from obstruction and may widen, deepen, and improve the ports, seaports, or harbors of this state; and

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

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

PART III

SECTION 3-1.

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

"36-70-6.  (a) As used in this Code section, the terms 'broadband services' and 'broadband services provider' shall have the same meanings as provided in Code Section 50-39-1.  (b) The governing bodies of municipalities and counties shall provide in any comprehensive plan for the promotion of the deployment of broadband services by broadband services providers."
SECTION 3-2.

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

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

PART IV

SECTION 4-1.

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

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

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

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

SECTION 4-2.

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

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

SECTION 4-3.

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

“(30) To exercise any power granted by the laws of this state to public or private
corporations which is not in conflict with the public purpose of the authority; and

(31) To coordinate the establishment and administration of one or more programs to
increase economic, educational, and social opportunities for citizens and businesses
through the promotion of the deployment of broadband services and other emerging
communications technologies throughout the state and to exercise any power granted to
the authority in Chapter 39 of this title; and

(32) To do all things necessary or convenient to carry out the powers conferred by
this chapter.”

PART V

SECTION 5-1.

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

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

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

SECTION 5-2.

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

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

PART VI

SECTION 6-1.

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

"CHAPTER 39
ARTICLE 1

50-39-1.

As used in this chapter, the term:

(1) 'Broadband network project' means any deployment of broadband services.
(2) 'Broadband services' means a wired or wireless terrestrial service that consists of the
capability to transmit at a rate of not less than 25 megabits per second in the downstream
direction and at least 3 megabits per second in the upstream direction to end users and in
combination with such service provides:

(A) Access to the Internet; or

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

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

(4) 'Development authority' shall have the same meaning as provided in Code Section

(5) 'Eligible applicants' means any or all public bodies, designated by the Department of
Community Affairs pursuant to paragraph (2) of subsection (b) of Code Section
50-39-81, as political subdivisions qualified to apply for funds under this article.

(6) 'Local authority' shall have the same meaning as provided in Code Section
36-82-220.

(7) 'Location' means any residence, dwelling, home, business, or building.

(8) 'Political subdivision' means a county, municipal corporation, consolidated
government, or local authority.

(9) 'Qualified broadband provider' means an entity that is authorized to apply for or that
obtains a certificate of authority issued pursuant to Code Section 46-5-163 that:

(A)(i) Has, directly or indirectly, been providing broadband services to at least 1,000
locations; and

(ii) Has been conducting business in the state for at least three years with a
demonstrated financial, technical, and operational capability to operate a broadband
services network; or

(B) Is able to demonstrate financial, technical, and operational capability to operate a
broadband services network.

(10) 'Served area' means a census block that is not designated by the Department of
Community Affairs as an unserved area.

(11) 'Unserved area' means a census block in which broadband services are not available
to 20 percent or more of the locations as determined by the Department of Community
Affairs pursuant to Article 2 of this chapter.


(a) The Georgia Technology Authority is authorized and directed to establish and
implement such policies and programs as are necessary to coordinate state-wide efforts to
promote and facilitate deployment of broadband services and other emerging
communications technologies throughout the state. Such policies and programs may
include, but are not limited to, the following:
(1) A written state-wide broadband services deployment plan and the development of
recommendations for the promotion and implementation of such a plan;
(2) Technical support and advisory assistance to state agencies, including, but not limited
to, the Department of Community Affairs and the OneGeorgia Authority, in developing
grant programs, designation programs, and other programs to promote the deployment
of broadband services and other emerging communications technologies;
(3) A periodic analysis performed in conjunction with the State Properties Commission
of any state assets, including, but not limited to, real property and structures thereon, that
may be leased or otherwise utilized for broadband services deployment; and
(4) Coordination between state agencies, local governments, industry representatives,
community organizations, and other persons that control access to resources, such as
facilities and rights of way, that may be used for the deployment of broadband services
and other emerging communications technologies, that apply for or receive federal funds
for the deployment of broadband services and other emerging communications
technologies, and that promote economic and community development.

(b) The Georgia Technology Authority shall submit copies of an annual report to the
Lieutenant Governor, the Speaker of the House of Representatives, and the Governor
regarding the policies and programs established by the authority as provided in
subsection (a) of this Code section. Such report shall specifically include information as
to the status of attainment of state-wide deployment of broadband services and other
emerging communications technologies and industry and technology trends in broadband
services and other emerging communications technologies. The Georgia Technology
Authority shall also provide such report to all members of the General Assembly; provided,
however, that the authority shall not be required to distribute copies of the report to the
members of the General Assembly but shall notify the members of the availability of such
report in the manner which it deems to be most effective and efficient. Furthermore, such
report may be a part of or submitted in conjunction with the report required to be submitted
by the Department of Community Affairs pursuant to Code Section 50-39-84.
(c) All state agencies shall cooperate with the Georgia Technology Authority and its
designated agents by providing requested information to assist in the development and
administration of policies and programs and the annual report provided for in this Code
section.
(d) The Georgia Technology Authority shall promulgate any policies necessary to
effectuate the provisions of this Code section.
50-39-3.
All information provided by a broadband services provider pursuant to this chapter shall be presumed to be confidential, proprietary, a trade secret as such term is defined in Code Section 10-1-761, and subject to exemption from disclosure under state and federal law and shall not be subject to disclosure under Article 4 of Chapter 18 of this title, except in the form of a map where information that could be used to determine provider-specific information about the network of the broadband services provider is not disclosed. Except as otherwise provided in this chapter, such provider-specific information shall not be released to any person other than to the submitting broadband services provider, the Department of Community Affairs or the Georgia Technology Authority, agents designated to assist in developing the map provided for in Article 2 of this chapter, employees of the Department of Community Affairs or the Georgia Technology Authority, and attorneys employed by or under contract with the Department of Community Affairs or the Georgia Technology Authority without express permission of the submitting broadband services provider. Such information shall be used solely for the purposes stated under this chapter.

ARTICLE 2

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

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

(b) The Department of Community Affairs shall consult with the Federal Communications Commission in determining if a map showing the unserved areas, as determined by the Department of Community Affairs, exists. If on or before July 1, 2018, the Department of Community Affairs determines that such a map does not exist then such a map shall be created by the Department of Community Affairs or an agent designated by the Department of Community Affairs. Such agent may include the Georgia Technology Authority or other entities and individuals that are determined by the Department of Community Affairs to possess the necessary prerequisites to assist the department in creating such a map. Any such map created by the Department of Community Affairs shall take into consideration any information received pursuant to subsections (c) and (d) of this Code section and Code Section 50-39-22. If the Department of Community Affairs determines that such a map does exist that was not created by the Department of Community Affairs or an agent

S. B. 402  - 9 -
designated by the Department of Community Affairs, then its website may link to such
existing map in lieu of republishing such map.

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

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


(a) An entity that is authorized to apply for or that obtains a certificate of authority
pursuant to Code Section 45-5-163, a broadband services provider, or a political
subdivision may file a petition with the Department of Community Affairs along with data
specifying locations or census blocks which the petitioner alleges should be designated
differently than as shown on the map published on the website of the Department of
Community Affairs pursuant to Code Section 50-39-21. Upon receipt of such petition and
data, the Department of Community Affairs shall provide notice of the petition on the
Department of Community Affairs' website and shall notify all broadband services
providers furnishing broadband services in such census block or any census block in which
any such locations are positioned. Such broadband services providers shall have 45 days
after the date such notice is sent to furnish information to the Department of Community
Affairs showing whether the locations that are the subject of the petition currently have
broadband services available. The Department of Community Affairs shall determine
whether the designation of such locations or census blocks should be changed and shall
issue such determination within 75 days of the date the notice is sent to the broadband
services provider.

(b) Any determination made by the Department of Community Affairs pursuant to this
Code section shall be final and not subject to review and any such determination shall not
be a contested case under Chapter 13 of Title 50, 'Georgia Administrative Procedure Act.'

ARTICLE 3


(a) A political subdivision that has a comprehensive plan that includes the promotion of
the deployment of broadband services, as required pursuant to Code Sections 36-70-6 and
50-8-7.1, may apply to the Department of Community Affairs for certification as a broadband ready community. The department shall by rules and regulations prescribe the form and manner for making an application. The department shall prescribe by rules and regulations a process for public notice and comment on an application for a period of at least 30 days after such application is received, except that such process shall not apply to an application by a political subdivision that enacts a model ordinance developed by the department under Code Section 50-39-41.

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

50-39-41.

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

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

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

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

(4) If such political subdivision does not make the written notification required under paragraph (2) of this subsection, requiring such political subdivision to consider an application to be complete:
(5) Within a certain time period after receiving an application that is complete, requiring
such political subdivision to approve or deny such application and provide the applicant
notification in writing of such approval or denial;

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

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

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

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

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

50-39-42.

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

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

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

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

or

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

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

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

50-39-43.

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

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

50-39-44.

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

50-39-45.

The department shall promulgate any reasonable and necessary rules and regulations to effectuate the provisions of this article.
ARTICLE 4

50-39-60. As used in this article, the term 'broadband services' means the provision of access to the Internet or computer processing, information storage, or protocol conversion.

50-39-61. In order to encourage economic development and attract technology enabled growth in Georgia, the Department of Community Affairs shall, with the assistance of the Department of Economic Development, create and administer the 'Georgia Broadband Ready Community Site Designation Program.' Such program shall designate facilities and developments that offer broadband services at a rate of not less than 1 gigabit per second in the downstream to end users that can be accessed for business, education, health care, government, and other public purposes as a Georgia Broadband Ready Community Site.

50-39-62. (a) The Department of Community Affairs or its designated agents shall evaluate the information submitted by applicants for designation as a Georgia Broadband Ready Community Site to confirm, based on the best available local, state, and federal broadband information, that at least 1 gigabit of broadband services is available within the facility or development.

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

50-39-63. The Department of Community Affairs shall be authorized to adopt and promulgate such rules and regulations as may be reasonable and necessary to carry out the purposes of this article.
50-39-80.
(a) The General Assembly recognizes that access to broadband services in today's society is essential to everyday life. Access to broadband services is a necessary service as fundamental as electricity, gas, or phone service. There is a growing need for the government of this state to provide the much needed infrastructure to the homes and businesses without access to broadband services due to their location in rural and other unserved areas. Furthermore, the General Assembly finds and declares that ensuring broadband services deployment will have a positive effect on education, health care, public safety, business and industry, government services, and leisure activities throughout the entire state. The General Assembly also finds and declares that guaranteeing an equitable deployment of broadband services throughout the state is a public necessity, one of the basic functions of government, and a benefit to the entire state. Moreover, the General Assembly finds and declares that it is in the best interest of the state and the persons who live and work in the state to spend state funds through the establishment of a grant program to ensure the creation of a state-wide foundation of broadband services infrastructure in unserved areas of the state.

(b) The General Assembly hereby finds and determines that the economic benefits that will inure to the State of Georgia and designated political subdivisions from the Georgia Broadband Deployment Initiative provided for in this article and from the performance by private sector persons and entities of the obligations that they will incur in connection with such Georgia Broadband Deployment Initiative, will be equal to or greater than the benefits to be derived by such private sector persons and entities in connection therewith, and that, therefore, the Georgia Broadband Deployment Initiative does not violate the prohibition in the Georgia Constitution on the payment by public bodies of gratuities to private sector persons or entities.

50-39-81.
(a) On or before July 1, 2019, the Department of Community Affairs shall develop the 'Georgia Broadband Deployment Initiative' program to provide funding awards to expand broadband services to unserved areas of the state. The goal of such program shall be to provide broadband services coverage throughout the entire state. The funding awards of the program shall represent the state's investment in the deployment of broadband services to unserved areas and shall be used only for capital expenses and expenses directly related to the purchase or lease of property or communications services or facilities, including without limitation backhaul and transport, to facilitate the provision of broadband services.
(b)(1) Funding awards, in the form of grants or loans, shall be competitively awarded to eligible applicants based on criteria consistent with this article and other factors established by the department; provided, however, that the department shall not discriminate between different types of broadband services technology as long as the technology is capable of transmitting data at the rates specified for each unserved area.

(2) The department shall designate political subdivisions as eligible applicants that shall be qualified to apply for funding awards under this article. All such eligible applicants are hereby granted all powers necessary for any and all purposes of the program, and in the case of any development authority included as an eligible applicant, the exercise of such powers is hereby found and determined to promote the development of trade, commerce, industry, and employment opportunities.

(c) Funding awards shall be based on appropriations of funds or receipt of other funds to support the program.

(d) The department shall consider each of the following in the funding awards process:

   (1) The effectiveness of the partnership between an eligible applicant and a qualified broadband services provider;

   (2) The benefit to the unserved area in terms of the population served and the capacity and scalability of the technology to be deployed; and

   (3) The total project cost and the ability to leverage other available federal, local, and private funds.

(e) In addition to the criteria provided in subsection (d) of this Code section, the department may establish any other criteria for determining any funding awards that are reasonable and necessary to ensure that the funds are utilized to provide broadband services to the unserved areas. Such criteria may include, but shall not be limited to:

   (1) Whether the qualified broadband services provider in the partnership is willing to agree to:

      (A) Not charge more for broadband services to customers in any unserved area for which a funding award is received than it does for the same or similar broadband services to customers in other areas of the state;

      (B) Serve 90 percent of any locations requesting broadband services in any unserved area for which a funding award is received; and

      (C) Meet or exceed in any unserved area for which it receives a grant a minimum level of dependable service as established by the department;

   (2) The benefit to businesses; industrial parks; education centers; hospitals and other health care facilities, such as telehealth facilities and emergency care facilities; government buildings; public safety departments; or other providers of public services located within the unserved area;
(3) Data cap limits, signal latency, and reliability of the technology to be utilized;

(4) Historic service issues in other areas served by the qualified broadband provider in the partnership; and

(5) The length of time it will take to deploy the broadband services in the unserved area.

(f) The department shall give competitive priority to any unserved area certified as a broadband ready community as provided in Article 3 of this chapter. Partnerships that include qualified broadband providers that cooperate in providing information requested pursuant to subsection (d) of Code Section 50-39-21, as applicable, shall also factor favorably into the competitive funding awards process.

(g) The department shall ensure that the program complies with all applicable federal laws, rules, and regulations.

50-39-82.

In addition to developing the program provided for in Code Section 50-39-81, the Department of Community Affairs shall provide oversight and coordination of state efforts to apply for, utilize, and implement public and private grants, programs, designations, and other resources for the deployment of broadband services and other emerging communications technologies.

50-39-83.

The Department of Community Affairs shall promulgate and enforce any reasonable and necessary rules and regulations to effectuate the provisions of this article and administer any of the programs provided for in this article.

50-39-84.

(a) On June 30, 2019, and on each June 30 thereafter, the Department of Community Affairs shall submit a report to the Lieutenant Governor, the Speaker of the House of Representatives, and the Governor on the progress in achieving the purposes of this article, including, at a minimum the status of any funding awards. Such report may be a part of or submitted in conjunction with the report required to be submitted by the Georgia Technology Authority pursuant to Code Section 50-39-2. Such report shall be published on the website of the Department of Community Affairs.
PART VII

SECTION 7-1.

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

SECTION 7-2.

All laws and parts of laws in conflict with this Act are repealed.