

## Senate Bill 65

By: Senators Gooch of the 51st, Miller of the 49th, Cowsert of the 46th, Tillery of the 19th, Harper of the 7th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 46 of the Official Code of Georgia Annotated, relating to public utilities and  
2 public transportation, so as to provide for the funding of the deployment of certain  
3 communications services throughout this state; to change and provide for certain definitions;  
4 to change certain provisions relating to the Universal Access Fund so as to modernize such  
5 Act and to provide for a certain portion of such fund to be used for the deployment of  
6 broadband services in unserved areas; to provide for certain powers and duties of the Public  
7 Service Commission so as to fund contributions and distributions; to provide for limitations  
8 and sunset provisions; to provide for administration of the fund; to provide for related  
9 matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public  
13 transportation, is amended by revising paragraph (2) of Code Section 46-5-162, relating to  
14 definitions regarding "The Telecommunications and Competition Development Act of 1995,"  
15 as follows:

16 "(2) 'Basic local exchange services' or 'universal access local exchange services' ~~mean~~  
 17 means the provision to residential and single line business customers in Georgia of  
 18 services composed of a touch tone switched access line and dial tone; of a quality  
 19 sufficient for ~~two-way~~ two-way voice and 9600 baud data/fax communications. This  
 20 service shall include 1+ dialing for access to competitive providers of  
 21 telecommunications services by January 1, 1997. ~~The elements of universal access local~~  
 22 ~~exchange services are subject to subsequent review and modification by the commission."~~

23

## SECTION 2.

24 Said title is further amended by revising Code Section 46-5-167, relating to the Universal  
 25 Access Fund, as follows:

26 "46-5-167.

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

28 (1) 'Broadband services' shall have the same meaning as provided in Code  
 29 Section 50-40-1.

30 (2) 'Unserved area' shall have the same meaning as provided in Code Section 50-40-1.

31 ~~(a)~~(b) The commission shall administer a Universal Access Fund to assure the provision  
 32 of reasonably priced access to basic local exchange services and the deployment of  
 33 broadband services to unserved areas throughout Georgia. The Universal Access Fund  
 34 shall be divided into two portions, the Local Exchange Portion of the fund and the  
 35 High-speed Broadband Deployment Portion of the fund. The fund shall be administered  
 36 by the commission pursuant to this Code section and under rules to be promulgated by the  
 37 commission as needed to assure that the fund operates in a competitively neutral manner  
 38 between competing telecommunications providers and broadband services providers.

39 ~~(b)~~(c) All telecommunications companies holding a certificate of authority issued by the  
 40 commission to provide services within Georgia shall contribute quarterly to the fund as

41 provided in this subsection. The commission shall determine the ~~manner of contribution~~  
42 ~~using either one or a combination of the following two contribution methodologies:~~

43 ~~(1) A charge for each working telephone number; or~~

44 ~~(2) A amount of contributions to be made to the fund which shall be a proportionate~~  
45 ~~amount based on the cost to administer the fund and each company's gross intrastate~~  
46 ~~revenues from the provision of telecommunications services to end users and from the~~  
47 ~~provision of broadband services to end users.~~

48 ~~In calculating such contributions, the commission shall allow a local exchange company~~  
49 ~~holding a certificate of authority issued by the commission after July 1, 1995, and before~~  
50 ~~January 1, 2010, with primary headquarters in Georgia and more than 750 full-time~~  
51 ~~employees working in Georgia as of January 1, 2010, to utilize accumulated unexpired~~  
52 ~~Georgia net operating losses for taxable years ending prior to January 1, 2010, on a full~~  
53 ~~dollar-for-dollar basis to reduce up to 50 percent of its contribution to the Universal Access~~  
54 ~~Fund. Within the same tax year of the election, companies making such election shall~~  
55 ~~formally notify the Department of Revenue that the company agrees to forego any rights~~  
56 ~~or claims to the Georgia net operating losses so used. The commission may allow any~~  
57 ~~telecommunications company certified as a competitive local exchange carrier to request~~  
58 ~~a hearing seeking relief from this contribution requirement upon application,~~  
59 ~~demonstration, and good cause shown that such competitive local exchange carrier does~~  
60 ~~not receive a benefit from the reduction in intrastate switched access charges pursuant to~~  
61 ~~subsection (c) of Code Section 46-5-166.~~

62 ~~(e)(d)~~ Contributions to the fund shall be determined ~~if~~, after notice and opportunity for  
63 hearing, and shall be based upon:

64 ~~(1) The the commission calculates the difference in the reasonable actual costs of basic~~  
65 ~~local exchange services throughout Georgia and the maximum amounts that may be~~  
66 ~~charged for such services and shall also account for reductions in intrastate switched~~

67 ~~access charges pursuant to subsection (c) of Code Section 46-5-166~~ rates set by the  
68 commission for such services;

69 (2) The limitations in subsection (f) of this Code section as to the amount of distributions  
70 to be made from the Local Exchange Portion of the fund;

71 (3) The applications submitted for distributions under the Local Exchange Portion of the  
72 fund and the High-speed Broadband Deployment Portion of the fund; and

73 (4) Any other factors the commission shall deem relevant in order to carry out the  
74 purposes of this Code section.

75 ~~(d)(1) Nothing in this subsection shall require any Tier 2 local exchange company to~~  
76 ~~raise any of its rates. Nothing in this subsection shall authorize any Tier 2 local exchange~~  
77 ~~company to receive any subsidy from the Universal Access Fund. For purposes of this~~  
78 ~~subsection, the term 'subsidy' means any payment authorized by paragraph (2) of this~~  
79 ~~subsection in excess of the intrastate access charge reductions pursuant to subsection (c)~~  
80 ~~of Code Section 46-5-166.~~

81 ~~(2) After notice and opportunity for hearing, the commission shall determine the amount~~  
82 ~~of moneys in the fund that shall be distributed quarterly. Such determination shall be~~  
83 ~~made as follows:~~

84 ~~(A) Distributions to carriers that have reduced intrastate switched access charges~~  
85 ~~pursuant to subsection (c) of Code Section 46-5-166 shall be limited to an amount~~  
86 ~~reflective of such access charge reductions and shall also be reduced by the amount per~~  
87 ~~access line, which if added to the carrier's basic local exchange service rate, in~~  
88 ~~accordance with a schedule established by the commission, results in an amount that~~  
89 ~~would be equal to 110 percent of the July 1, 2009, residential state-wide weighted~~  
90 ~~average rate for basic local exchange services imputed across all access lines and~~  
91 ~~adjusted annually for inflation measured by the change in GDP-PI. Any distributions~~  
92 ~~pursuant to this subparagraph shall be limited to a period of no more than ten years; and~~

93 ~~(B) Except for those distributions to Tier 2 local exchange companies that have~~  
94 ~~reduced intrastate switched access charges pursuant to subsection (c) of Code Section~~  
95 ~~46-5-166, distributions to a Tier 2 local exchange carrier subject to rate of return~~  
96 ~~regulation shall also be reduced by the amount per access line, which if added to the~~  
97 ~~carrier's basic local exchange service rate, in accordance with a schedule established by~~  
98 ~~the commission, results in an amount that would be equal to 110 percent of the July 1,~~  
99 ~~2009, residential state-wide weighted average rate for basic local exchange services~~  
100 ~~imputed across all access lines and adjusted annually for inflation measured by the~~  
101 ~~change in GDP-PI. The commission shall determine any such distributions upon~~  
102 ~~application, demonstration, and good cause shown that the reasonable actual costs to~~  
103 ~~provide basic local exchange services exceed the maximum fixed price permitted for~~  
104 ~~such basic local exchange services; any distributions pursuant to this subparagraph shall~~  
105 ~~be limited to a period of no more than 20 years.~~

106 ~~(e) The commission shall require any local exchange company seeking reimbursement~~  
107 ~~from the fund pursuant to subparagraph (d)(2)(B) of this Code section to file the~~  
108 ~~information reasonably necessary to determine the actual and reasonable costs of providing~~  
109 ~~basic local exchange services.~~

110 (e)(1) The commission shall determine distribution awards from the High-speed  
111 Broadband Deployment Portion of the fund which shall represent the state's investment  
112 in the expansion of broadband services into unserved areas. Distribution awards from the  
113 High-speed Broadband Deployment Portion of the fund shall be used solely for capital  
114 expenses and other expenses directly related to the purchase or lease of property or  
115 communications services or facilities, including, without limitation, backhaul and  
116 transport, to facilitate the provision of broadband services, unless otherwise approved by  
117 the commission.

118 (2) To be eligible for a distribution award from the High-speed Broadband Deployment  
119 Portion of the fund, an applicant shall hold a certificate of authority issued by the

120 commission to provide services within this state and shall demonstrate that it has or will  
121 cooperate in providing information requested pursuant to subsection (d) of Code Section  
122 50-40-21. Such distribution awards shall be competitively awarded to eligible applicants  
123 based on criteria established by the commission, which may include:

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

126 (B) The total project cost and the ability to leverage other available federal, local, and  
127 private funds;

128 (C) The benefit to businesses; industrial parks; education centers; hospitals and other  
129 health care facilities, such as telehealth facilities and emergency care facilities;  
130 government buildings; public safety departments; or other providers of public services  
131 located within the unserved area;

132 (D) Data cap limits, signal latency, and reliability of the technology to be utilized;

133 (E) Historic service issues in other areas served by the applicant;

134 (F) The time frame required to deploy the broadband services in the unserved area;

135 (G) Whether the unserved area is certified as a broadband ready community as  
136 provided in Article 3 of Chapter 40 of Title 50; and

137 (H) Other factors established by the commission.

138 (3) The commission may condition the receipt of such distribution award on the recipient  
139 agreeing to certain stipulations, which may include:

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

143 (B) Serving 90 percent of any locations requesting broadband services in any unserved  
144 area for which a distribution award is received;

145 (C) Meeting or exceeding in any unserved area for which it receives a distribution  
146 award a minimum level of dependable service as established by the commission; and

147 (D) Any other stipulations as determined by the commission that will ensure the  
148 deployment of broadband services to unserved areas.

149 (4) The commission may require the recipient of a distribution award to provide periodic  
150 reports and verification as to the use of the distribution award funds.

151 (f) The commission shall determine any distributions from the Local Exchange Portion of  
152 the fund upon application, demonstration, and good cause shown to the commission by any  
153 applicant that the reasonable actual costs of the applicant to provide basic local exchange  
154 services exceed the maximum fixed price permitted for such basic local exchange services.  
155 The commission shall require any local exchange company seeking reimbursement from  
156 this portion of the fund to file the information reasonably necessary to determine the actual  
157 and reasonable costs of providing basic local exchange services. Distributions from the  
158 Local Exchange Portion of the fund shall be limited to \$35 million in any fiscal year  
159 beginning July 1, 2021, and no distributions from such portion of the fund shall be made  
160 after June 30, 2030.

161 ~~(f)~~(g) The commission shall have the authority to make adjustments to the contribution or  
162 distribution levels based on yearly annual applications and reconciliations and to order  
163 further contributions or distributions as needed between companies to equalize reasonably  
164 the burdens of providing basic local exchange ~~service~~ services throughout Georgia and  
165 providing broadband services in unserved areas of this state.

166 ~~(g)~~(h) A ~~local exchange company~~ telecommunications company holding a certificate of  
167 authority issued by the commission to provide services within Georgia or other company  
168 ~~shall not may~~ establish a surcharge for the Universal Access Fund on customers' bills to  
169 collect contributions required under this Code section ~~without first submitting.~~ Such  
170 company shall submit to the Public Service Commission the methodology and data used  
171 by such company for ~~approval by the commission and upon a showing to the commission~~  
172 ~~that the surcharge does not result in an increase in the company's service rates~~ such  
173 surcharge; provided, however, that such company shall not be required to submit for

174 ~~approval~~ the methodology and data for separate line items or surcharges that are  
175 specifically authorized or required by federal law or other provisions of state law.

176 (i) A distribution award received under this Code section from the High-speed Broadband  
177 Deployment Portion of the fund or a funding award received under Code Section 50-40-81  
178 shall not be considered a distribution received from the Local Exchange Portion of the  
179 fund.

180 (j) The commission may contract with the Department of Community Affairs and the  
181 Georgia Technology Authority for professional, technical, clerical, and administrative  
182 support as may be required in order to administer the High-speed Broadband Deployment  
183 Portion of the fund and may use moneys from such portion of the fund for such purpose."

184 **SECTION 3.**

185 This Act shall become effective upon its approval by the Governor or upon its becoming law  
186 without such approval for purposes of promulgating rules and regulations. This Act shall  
187 become effective on July 1, 2021, for all other purposes.

188 **SECTION 4.**

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