

1 AN ACT

2 RELATING TO BROADBAND; AMENDING, REPEALING AND ENACTING  
3 SECTIONS OF THE DEPARTMENT OF INFORMATION TECHNOLOGY ACT;  
4 AUTHORIZING THE LEASE OR SALE OF BROADBAND INFRASTRUCTURE AND  
5 THE PROVISION OF CYBERSECURITY, INFORMATION TECHNOLOGY AND  
6 TELECOMMUNICATION NETWORK SERVICES; PROVIDING FOR  
7 ADMINISTRATIVE HEARINGS; CLARIFYING THE BASES FOR SOME  
8 SERVICE RATES; PROVIDING DEFINITIONS; AMENDING SECTIONS OF  
9 THE BROADBAND ACCESS AND EXPANSION ACT; REQUIRING REPORTING  
10 BY SOME INTERNET SERVICE PROVIDERS; ESTABLISHING CONDITIONS  
11 FOR LEASE OF THE STATE-OWNED BROADBAND NETWORK.

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

14 SECTION 1. Section 9-27-3 NMSA 1978 (being Laws 2007,  
15 Chapter 290, Section 3, as amended) is amended to read:

16 "9-27-3. DEFINITIONS.--As used in the Department of  
17 Information Technology Act:

18 A. "agency", unless otherwise specified, means  
19 executive branch cabinet agencies and their administratively  
20 attached agencies, offices, boards and commissions;

21 B. "cybersecurity" means acts, practices or  
22 systems that eliminate or reduce the risk of loss of critical  
23 assets, loss of sensitive information or reputational harm as  
24 a result of a cyberattack or breach within an organization's  
25 telecommunication network;

1           C. "department" means the department of  
2 information technology;

3           D. "information technology" means computer  
4 hardware, storage media, networking equipment, physical  
5 devices, infrastructure, processes and code, firmware,  
6 software and ancillary products and services, including:

7                   (1) systems design and analysis;

8                   (2) development or modification of hardware  
9 or solutions used to create, process, store, secure or  
10 exchange electronic data;

11                   (3) information storage and retrieval  
12 systems;

13                   (4) voice, radio, video and data  
14 communication systems;

15                   (5) network, hosting and cloud-based  
16 systems;

17                   (6) simulation and testing; and

18                   (7) interactions between a user and an  
19 information system;

20           E. "information technology project" means the  
21 purchase, replacement, development or modification of a  
22 hardware or software system;

23           F. "secretary" means the secretary of information  
24 technology;

25           G. "state information architecture" means a

1 logically consistent set of principles, policies and  
2 standards that guides the engineering of state government's  
3 information technology systems and infrastructure in a way  
4 that ensures alignment with state government's business  
5 needs;

6 H. "state information technology strategic plan"  
7 means the information technology planning document for the  
8 state that spans a three-year period; and

9 I. "telecommunication network" means the physical  
10 and logical components and all associated infrastructure used  
11 in transporting, routing, aggregating and delivering voice  
12 and data information from computer and telecommunications  
13 systems in one location to peer systems in another."

14 SECTION 2. Section 9-27-6 NMSA 1978 (being Laws 2007,  
15 Chapter 290, Section 6, as amended by Laws 2017, Chapter 7,  
16 Section 2 and by Laws 2017, Chapter 45, Section 2) is amended  
17 to read:

18 "9-27-6. SECRETARY--DUTIES AND GENERAL POWERS.--

19 A. The secretary is responsible to the governor  
20 for the operation of the department. It is the secretary's  
21 duty to manage all operations of the department and to  
22 administer and enforce the laws with which the secretary or  
23 the department is charged.

24 B. To perform the secretary's duties, the  
25 secretary has every power expressly enumerated in the laws,

1 whether granted to the secretary or the department or any  
2 division of the department, except where authority conferred  
3 upon any division is explicitly exempted from the secretary's  
4 authority by statute. In accordance with these provisions,  
5 the secretary shall:

6 (1) exercise general supervisory and  
7 appointing authority over all department employees, subject  
8 to any applicable personnel laws and regulations;

9 (2) delegate authority to subordinates as  
10 the secretary deems necessary and appropriate, clearly  
11 delineating such delegated authority and the limitations  
12 thereto;

13 (3) organize the department into those  
14 organizational units the secretary deems will enable it to  
15 function most efficiently, subject to provisions of law  
16 requiring or establishing specific organizational units;

17 (4) within the limitations of available  
18 appropriations and applicable laws, employ and fix the  
19 compensation of those persons necessary to discharge the  
20 secretary's duties;

21 (5) take administrative action by issuing  
22 orders and instructions, not inconsistent with the law, to  
23 ensure implementation of and compliance with the provisions  
24 of law for whose administration or execution the secretary is  
25 responsible and to enforce those orders and instructions by

1 appropriate administrative action in the courts;

2 (6) conduct research and studies that will  
3 improve the operations of the department and the provision of  
4 services to state agencies and the residents of the state;

5 (7) provide courses of instruction and  
6 practical training for employees of the department and other  
7 persons involved in the administration of programs with the  
8 objective of improving the operations and efficiency of  
9 administration;

10 (8) prepare an annual budget of the  
11 department;

12 (9) provide cooperation, at the request of  
13 heads of administratively attached agencies, in order to:

14 (a) minimize or eliminate duplication  
15 of services and jurisdictional conflicts;

16 (b) coordinate activities and resolve  
17 problems of mutual concern; and

18 (c) resolve by agreement the manner and  
19 extent to which the department shall provide budgeting,  
20 recordkeeping and related clerical assistance to  
21 administratively attached agencies;

22 (10) appoint for each division a "director".

23 These appointed positions are exempt from the provisions of  
24 the Personnel Act. Persons appointed to these positions  
25 shall serve at the pleasure of the secretary; and

1                   (11) acquire, hold and maintain, through  
2 lease, trade or purchase, any real or personal property  
3 necessary to meet customer requirements or department  
4 obligations, including obligations of administratively  
5 attached offices or bodies.

6                   C. As the chief information officer, the secretary  
7 shall:

8                   (1) review agency plans regarding prudent  
9 allocation of information technology resources; reduction of  
10 duplicate or redundant data, hardware and software; and  
11 improvement of system interoperability and data accessibility  
12 among agencies;

13                   (2) approve agency information technology  
14 requests for proposals and other agency requests that are  
15 subject to the Procurement Code, prior to final approval;

16                   (3) promulgate rules for oversight of  
17 information technology procurement;

18                   (4) approve agency information technology  
19 contracts and amendments to those contracts, including  
20 emergency procurements, sole source contracts and price  
21 agreements, prior to approval by the department of finance  
22 and administration;

23                   (5) develop and implement procedures to  
24 standardize data elements, determine data ownership and  
25 ensure data sharing among executive agencies;

1                   (6) verify compliance with state information  
2 architecture and the state information technology strategic  
3 plan before approving documents referred to in Paragraphs (2)  
4 and (4) of this subsection;

5                   (7) monitor agency compliance with its  
6 agency plan, the state information technology strategic plan  
7 and state information architecture and report to the  
8 governor, executive agency management and the legislative  
9 finance committee on noncompliance;

10                   (8) develop information technology cost  
11 recovery mechanisms and information systems rate and fee  
12 structures of state agencies and other public or private  
13 sector providers and make recommendations to the information  
14 technology rate committee;

15                   (9) provide technical support to executive  
16 agencies in the development of their agency plans;

17                   (10) ensure the use of existing public or  
18 private information technology or telecommunications  
19 resources when the use is practical, efficient, effective and  
20 financially prudent and is in compliance with the Procurement  
21 Code;

22                   (11) review appropriation requests related  
23 to agency information technology requests to ensure  
24 compliance with agency plans and the state information  
25 technology strategic plan and make written recommendations by

1 November 14 of each year to the department of finance and  
2 administration and by November 21 of each year to the  
3 legislative finance committee and the appropriate interim  
4 legislative committee; provided, however, that the  
5 recommendations to the legislative committees have been  
6 agreed to by the department of information technology and the  
7 department of finance and administration;

8 (12) promulgate rules to ensure that  
9 information technology projects satisfy criteria established  
10 by the secretary and are phased in with funding released in  
11 phases contingent upon successful completion of the prior  
12 phase;

13 (13) provide oversight of information  
14 technology projects, including ensuring adequate risk  
15 management, disaster recovery and business continuity  
16 practices and monitoring compliance with strategies for  
17 information technology projects that affect multiple  
18 agencies;

19 (14) conduct reviews of information  
20 technology projects and provide written reports to the  
21 appropriate legislative oversight bodies;

22 (15) conduct background checks on department  
23 employees and prospective department employees that have or  
24 will have administrative access or authority to sensitive,  
25 confidential or private information or the ability to alter

1 systems, networks or other information technology hardware or  
2 software; and

3 (16) perform any other information  
4 technology function assigned by the governor.

5 D. As the chief information officer, the secretary  
6 may:

7 (1) upon the advice and recommendation of  
8 the director of the office of broadband access and expansion  
9 pursuant to the provisions of the Broadband Access and  
10 Expansion Act, make available by lease or sale at the  
11 department's established rates on a competitively neutral  
12 basis such state-owned broadband network infrastructure or  
13 internet service that would connect underserved and unserved  
14 populations of New Mexico and otherwise support objectives of  
15 the state broadband plan;

16 (2) offer cybersecurity risk prevention and  
17 information technology mitigation and response solutions,  
18 including application and equipment selection, intrusion  
19 response, system monitoring or system testing for all users  
20 of agency-operated or -owned information technology, to  
21 include compliance standards for broadband infrastructure  
22 projects within the oversight or administration of the  
23 department; and

24 (3) establish an administrative hearing and  
25 enforcement process internal to the department or in

1 coordination with the administrative hearings office to  
2 support the department's private sector regulatory activities  
3 or any administratively attached office or body.

4 E. Each agency shall submit an agency information  
5 technology plan to the secretary in the form and detail  
6 required by the secretary. Each agency shall conduct  
7 background checks on agency or prospective agency employees  
8 that have or will have administrative access or authority to  
9 alter systems, networks or other information technology  
10 hardware or software.

11 F. An agency that receives an invoice from the  
12 department for services rendered to the agency shall have  
13 thirty days from receipt of the invoice to pay the department  
14 or to notify the department if the amount of the invoice is  
15 in dispute. The agency shall have fifteen days from its  
16 notification of dispute to the department to present its  
17 reasons in writing and request an adjustment. The department  
18 shall have fifteen days from its receipt of the reasons for  
19 dispute to notify the agency of its decision. If the  
20 department and the agency do not agree on a resolution, the  
21 secretary of finance and administration shall make a  
22 determination on the amount owed by the agency to the  
23 department. If the agency has not paid the department or  
24 notified the department of a dispute within thirty days of  
25 receipt of the invoice, the department shall notify the

1 department of finance and administration and request that the  
2 department of finance and administration transfer funds from  
3 the agency to the department of information technology to  
4 satisfy the agency's obligation.

5 G. The secretary, as chief information officer,  
6 shall prepare a state information technology strategic plan  
7 for the executive branch and update it at least once every  
8 three years, which plan shall be available to agencies by  
9 July 31 of each year. The plan shall comply with the  
10 provisions of the Department of Information Technology Act  
11 and provide for the:

12 (1) interchange of information related to  
13 information technology among executive agencies;

14 (2) coordination among executive agencies in  
15 the development and maintenance of information technology  
16 systems;

17 (3) protection of the privacy and security  
18 of individual information as well as of individuals using the  
19 state's information technology systems;

20 (4) development of a statewide broadband  
21 network plan in conjunction with the public education  
22 department, the higher education department, state  
23 universities, other educational institutions, the public  
24 school capital outlay council, political subdivisions of the  
25 state, Indian nations, tribes and pueblos, the public

1 regulation commission and telecommunication network service  
2 providers; and

3 (5) coordination and aggregation of services  
4 where feasible for entities as provided for in Section  
5 9-27-20 NMSA 1978 and other publicly funded entities.

6 H. The secretary may apply for and receive, with  
7 the governor's approval, in the name of the department, any  
8 public or private funds, including United States government  
9 funds, available to the department to carry out its programs,  
10 duties or services or those of an administratively attached  
11 office or public body.

12 I. Where information technology functions of  
13 executive agencies overlap or a function assigned to one  
14 agency could better be performed by another agency, the  
15 secretary may recommend appropriate legislation to the next  
16 session of the legislature for its approval.

17 J. Pursuant to the State Rules Act and rules  
18 promulgated pursuant to that act, the secretary may make and  
19 adopt such reasonable procedural rules as may be necessary to  
20 carry out the duties, or relating to any matter within the  
21 oversight, of the department and its administratively  
22 attached offices or public bodies, divisions and requirements  
23 and standards for the executive branch's information  
24 technology needs, functions, systems and resources,  
25 including:

- 1 (1) information technology security;
- 2 (2) approval for procurement of information
- 3 technology not in conflict with the Procurement Code that
- 4 exceeds an amount set by rule;
- 5 (3) detail and format for the agency
- 6 information technology plan;
- 7 (4) acquisition, licensing and sale of
- 8 information technology; and
- 9 (5) requirements for agency information
- 10 technology projects and related plan, analysis, oversight,
- 11 assessment and specifications.

12 K. Unless otherwise provided by statute, no rule  
13 affecting any person or agency outside the department shall  
14 be adopted, amended or repealed without a public hearing on  
15 the proposed action before the secretary or a hearing officer  
16 designated by the secretary. The public hearing shall be  
17 held in Santa Fe unless otherwise permitted by statute.  
18 Notice of the subject matter of the rule, the action proposed  
19 to be taken, the time and place of the hearing, the manner in  
20 which interested persons may present their views and the  
21 method by which copies of the proposed rule, proposed  
22 amendment or repeal of an existing rule may be obtained shall  
23 be published once at least thirty days prior to the hearing  
24 date in a newspaper of general circulation and mailed at  
25 least thirty days prior to the hearing date to all persons

1 who have made a written request for an advance notice of  
2 hearing. Rules shall be filed in accordance with the State  
3 Rules Act."

4 SECTION 3. Section 9-27-7 NMSA 1978 (being Laws 2007,  
5 Chapter 290, Section 7, as amended) is amended to read:

6 "9-27-7. INFORMATION TECHNOLOGY RATE COMMITTEE--  
7 MEMBERSHIP--DUTIES.--

8 A. The "information technology rate committee" is  
9 created. The committee consists of seven members as follows:

10 (1) five members appointed by the governor  
11 from executive agencies that use information technology  
12 services and pay rates to an internal service fund;

13 (2) the secretary of finance and  
14 administration, who shall serve as chair of the committee;  
15 and

16 (3) the secretary of information technology.

17 B. The information technology rate committee  
18 shall:

19 (1) review the rate and fee schedule  
20 proposed by the secretary;

21 (2) ensure that the rate and fee schedule  
22 complies with the federal office of management and budget  
23 circular A-87 or its successor directive with respect to  
24 rates for expenditure of money from federal grant awards;

25 (3) consider for approval an equitable rate

1 and fee schedule based on cost recovery for state agencies  
2 that use information technology services and pay rates to an  
3 internal service fund, with priority service to public safety  
4 agencies;

5 (4) present the committee's proposed rate  
6 and fee schedule by June 1 of each year to the office of the  
7 governor, the department of finance and administration and  
8 the legislative finance committee; and

9 (5) by July 15 of each year, implement a  
10 rate and fee schedule based on the committee's  
11 recommendations; provided, however, that a reduction in rates  
12 or fees by the department shall not require the committee's  
13 approval if the reduction is based on cost recovery and if  
14 the committee is notified timely."

15 SECTION 4. Section 9-27-15 NMSA 1978 (being Laws 1997,  
16 Chapter 263, Section 1, as amended by Laws 2007, Chapter 288,  
17 Section 2 and by Laws 2007, Chapter 290, Section 15) is  
18 amended to read:

19 "9-27-15. LEASE OF RADIO COMMUNICATIONS NETWORK--  
20 CONDITIONS AND REQUIREMENTS.--In exercising supervisory  
21 control pursuant to Section 9-27-14 NMSA 1978, the department  
22 may lease to a private entity excess capacity relating to the  
23 provision of two-way radio services on its radio  
24 communications property, including buildings, towers or  
25 antennas, provided that:

1           A. the lease is for an equivalent value exchange  
2 of money or property or services;

3           B. the secretary certifies that the excess  
4 capacity will be available for at least the duration of the  
5 lease;

6           C. if the lease exceeds ten years, the lease is  
7 first approved by the state board of finance;

8           D. the department has submitted to the legislative  
9 finance committee a detailed plan for the use of excess  
10 capacity being leased and an assessment of how the lease will  
11 affect public sector uses and local telecommunication service  
12 providers; and

13           E. income from the leases shall be deposited to  
14 the credit of the department and used to carry out the duties  
15 of the department."

16           SECTION 5. Section 9-27-20 NMSA 1978 (being Laws 1963,  
17 Chapter 181, Section 1, as amended) is repealed and a new  
18 Section 9-27-20 NMSA 1978 is enacted to read:

19           "9-27-20. TELECOMMUNICATIONS--DUTIES.--

20           A. The department shall enter into necessary  
21 agreements to provide, where feasible, a telecommunication  
22 network and related facilities to all executive, legislative  
23 and judicial branches and may, when capacity exists and it is  
24 economical, provide a telecommunication network and related  
25 facilities to educational institutions and other entities,

1 with a preference to public entities.

2 B. The department may, in compliance with the  
3 Procurement Code, establish price agreements with vendors for  
4 information technology goods and services. Any public body  
5 may directly procure goods or services offered under a  
6 department-placed price agreement other than a price  
7 agreement for an enterprise service administered by the  
8 department.

9 C. On July 1, 2023, and on July 1 of each  
10 subsequent year, the department shall provide a catalog  
11 listing the information technology goods and services it has  
12 available to offer with the approved rates.

13 D. Subject to capacity after meeting requirements  
14 of agency customers, the department may offer catalog goods  
15 and services to non-agency customers. The department may  
16 require a non-agency customer to comply with all rules and  
17 guidance applicable to the department-provided good or  
18 service but shall not require a non-agency customer to comply  
19 with any other law administered by the department unless  
20 otherwise provided by law."

21 SECTION 6. Section 9-27-26 NMSA 1978 (being Laws 2017,  
22 Chapter 7, Section 9) is amended to read:

23 "9-27-26. INDIAN NATIONS, TRIBES AND PUEBLOS--  
24 AGENCY-OWNED OR -OPERATED BROADBAND NETWORK--STATEWIDE  
25 BROADBAND--RIGHT-OF-WAY AGREEMENT AND SERVICE AGREEMENT.--

1 Indian nations, tribes and pueblos may connect to an agency-  
2 owned or -operated statewide broadband network in exchange  
3 for a mutually agreed upon right-of-way agreement or a  
4 service agreement with the chief information officer. The  
5 chief information officer shall apply for reimbursements from  
6 the federal universal service fund pursuant to Section 254 of  
7 the federal Telecommunications Act of 1996, 47 U.S.C. 254,  
8 as such section existed on January 1, 2006, on behalf of  
9 Indian nations, tribes and pueblos that execute a  
10 right-of-way agreement or service agreement."

11 SECTION 7. Section 63-9J-2 NMSA 1978 (being Laws 2021,  
12 Chapter 123, Section 2) is amended to read:

13 "63-9J-2. DEFINITIONS.--As used in the Broadband Access  
14 and Expansion Act:

15 A. "broadband infrastructure" means facilities and  
16 equipment used to provide internet service, excluding  
17 telecommunications equipment owned, controlled or operated by  
18 a public or private end user;

19 B. "broadband office" means the office of  
20 broadband access and expansion;

21 C. "department", unless otherwise specified, means  
22 the department of information technology;

23 D. "director" means the director of the broadband  
24 office;

25 E. "end user" means an individual, business,

1 institution or governmental entity that subscribes to an  
2 internet service and does not resell that service to other  
3 individuals or entities;

4 F. "facilities-based provider" means a provider of  
5 internet service to end users in New Mexico using facilities  
6 that satisfy any of the following criteria:

7 (1) physical facilities that the entity owns  
8 and that terminate at the end user premises;

9 (2) facilities that the entity has obtained  
10 the right to use from other entities, such as dark fiber or  
11 satellite transponder capacity as part of its own network, or  
12 has obtained;

13 (3) unbundled network element loops, special  
14 access lines or other leased facilities that the entity uses  
15 to complete terminations to the end user premises;

16 (4) wireless spectrum for which the entity  
17 holds a license or that the entity manages or has obtained  
18 the right to use via a spectrum leasing arrangement or  
19 comparable arrangement pursuant to federal regulations  
20 promulgated pursuant to the federal Communications Act of  
21 1934, as amended, or upon subsequent amendment or repeal of  
22 that act, by the broadband office by rule; or

23 (5) unlicensed spectrum;

24 G. "internet" means a global set of computing and  
25 electronic devices interconnected through networking

1 infrastructures to provide data and information sharing and  
2 communication facilities;

3 H. "local government" means the government of a  
4 municipality, county or political subdivision of the state;

5 I. "open access" means equal nondiscriminatory  
6 access to the state-owned broadband network by eligible  
7 entities on a technologically and competitively neutral  
8 basis, regardless of whether the entity is privately or  
9 publicly owned;

10 J. "public educational institution" means a public  
11 school, a school district, a public post-secondary  
12 educational institution or an agency that provides  
13 administrative, funding or technical support to public  
14 schools, school districts and public post-secondary  
15 educational institutions;

16 K. "quality of service" means the standards  
17 established by the federal communications commission;

18 L. "state-owned broadband network" means the  
19 state-owned broadband infrastructure that is owned, leased or  
20 operated by the department;

21 M. "statewide broadband plan" means a plan,  
22 including recommended statutory changes and implementation  
23 procedures, for the development and expansion of broadband  
24 infrastructure and services throughout the state to meet the  
25 needs:

1 (1) for the delivery of internet-based  
2 educational, medical and emergency services;

3 (2) for local and tribal communities to  
4 foster and recruit internet-reliant business and industry and  
5 to promote economic development and job creation; and

6 (3) to support internet-reliant state, local  
7 and tribal government functions and facilitate the delivery  
8 of governmental services in a manner that is competitive with  
9 similar government agencies in neighboring states;

10 N. "underserved" means an area or property that  
11 does not have access to internet service offering speeds  
12 greater than one hundred megabits downstream and twenty  
13 megabits upstream; and

14 O. "unserved" means an area or property that  
15 either does not have access to internet service at all or  
16 only has access to internet service offering speeds below  
17 twenty-five megabits per second downstream or three megabits  
18 per second upstream."

19 SECTION 8. Section 63-9J-3 NMSA 1978 (being Laws 2021,  
20 Chapter 123, Section 3) is amended to read:

21 "63-9J-3. OFFICE OF BROADBAND ACCESS AND EXPANSION  
22 CREATED--DIRECTOR--STANDARDS--DATA COLLECTION--STATEWIDE  
23 BROADBAND PLAN--ASSISTANCE FOR POLITICAL SUBDIVISIONS.--

24 A. The "office of broadband access and expansion"  
25 is created and is administratively attached to the

1 department.

2 B. The broadband office shall be managed by the  
3 director, who shall be appointed by the governor. The  
4 director may hire staff as needed to meet the  
5 responsibilities of the broadband office.

6 C. The broadband office shall:

7 (1) establish by rule standards for quality  
8 of service for homes, businesses and public institutions;

9 (2) create and maintain an official,  
10 publicly accessible online New Mexico broadband access map  
11 showing broadband availability and quality of service for  
12 homes, businesses and public institutions on a county-by-  
13 county basis; and

14 (3) create and maintain a repository for  
15 broadband data and information in New Mexico on a county-by-  
16 county basis, including:

17 (a) the number of homes and businesses  
18 that do not have access to broadband service;

19 (b) the number of homes and businesses  
20 that have broadband service that falls below the quality of  
21 service standards established by the broadband office; and

22 (c) the locations of broadband  
23 infrastructure currently owned or projected for construction  
24 by the state or local governments on a county-by-county  
25 basis.

1           D. On or before January 1, 2022, the broadband  
2 office shall develop and provide to the governor and the  
3 legislature a three-year statewide broadband plan.

4           E. On or before January 1, 2023, and on or before  
5 January 1 of each year thereafter, the broadband office shall  
6 update and revise the statewide broadband plan developed  
7 pursuant to this section for the ensuing three years and  
8 report the updated and revised statewide broadband plan to  
9 the governor and the legislature. In its initial plan  
10 pursuant to Subsection D of this section and in its annual  
11 revised and updated plan pursuant to this subsection, the  
12 broadband office shall provide an assessment of broadband  
13 service across the state compared to the standards  
14 established by the various federal broadband regulatory and  
15 assistance programs.

16           F. In the development of the statewide broadband  
17 plan, the broadband office shall request advice and provide  
18 opportunities for meaningful input from each local and tribal  
19 government within New Mexico, and all state agencies and  
20 public educational institutions shall cooperate with and  
21 provide relevant broadband-related information collected or  
22 developed by the agencies as requested by the broadband  
23 office.

24           G. The broadband office shall implement the  
25 statewide broadband plan.

1           H. The broadband office shall provide technical  
2 and planning assistance to local governments, public  
3 educational institutions and state agencies in the design,  
4 development or implementation of their own plans for the  
5 development of broadband service. When providing planning  
6 and technical assistance, the broadband office shall  
7 encourage the use of regional planning and may provide  
8 planning and technical assistance to tribal government  
9 agencies and schools when those entities are participants in  
10 a joint powers agreement with a county, municipality,  
11 political subdivision, public educational institution or  
12 agency or memorandum of understanding for the design,  
13 development or implementation of a regional broadband plan.

14           I. The broadband office may form an advisory  
15 committee comprising representatives of state, local and  
16 tribal government agencies and the general public to  
17 facilitate the collection of information and the development  
18 of proposals for the statewide broadband plan; provided that  
19 if an advisory committee is formed, at least three different  
20 tribal agencies shall be represented on the committee.

21           J. In furtherance of statewide broadband planning,  
22 all facilities-based providers shall report semiannually to  
23 the broadband office the same data in the same format that is  
24 reported to the federal communications commission pursuant to  
25 federal law governing data submitted for broadband mapping.

1 The reports shall be submitted each year on or before April  
2 1, with regard to data existing as of December 31 of the  
3 prior year, and on or before October 1, with regard to data  
4 existing as of June 30 of the then current year. All  
5 information reported by a facilities-based provider pursuant  
6 to this subsection shall be maintained as confidential  
7 information by the broadband office in accordance with  
8 applicable state or federal law.

9 K. The reporting requirements set forth in  
10 Subsection J of this section do not apply to tribal  
11 corporations federally chartered by the bureau of Indian  
12 affairs.

13 L. The broadband office may adopt rules requiring  
14 facilities-based providers to report data in addition to the  
15 data required pursuant to Subsection J of this section;  
16 provided that no such rule shall require a facilities-based  
17 provider to report any such data more frequently than twice  
18 per year."

19 SECTION 9. Section 63-9J-4 NMSA 1978 (being Laws 2021,  
20 Chapter 123, Section 4) is amended to read:

21 "63-9J-4. COORDINATION OF STATE AND LOCAL GOVERNMENT  
22 BROADBAND EFFORTS.--

23 A. The broadband office shall identify federal and  
24 nongovernmental broadband funding assistance opportunities  
25 for local governments, public educational institutions, state

1 agencies and tribal governments and shall publish a list of  
2 those opportunities in a manner that can be searched on a  
3 county-by-county basis.

4 B. The broadband office may be the applicant for  
5 such funding assistance for all state agencies except the  
6 department of transportation.

7 C. State agencies and public educational  
8 institutions shall coordinate with the broadband office  
9 concerning the purchase of broadband infrastructure and  
10 services with the goal of obtaining best-value or bulk  
11 pricing agreements where practicable.

12 D. The broadband office shall coordinate with and  
13 may enter into memoranda of understanding with federal, local  
14 government, state and tribal government agencies to create an  
15 integrated system of permits, licenses and rules for  
16 broadband infrastructure across all governmental  
17 jurisdictions within each region of the state, including the  
18 creation of a centralized repository, and an expedited review  
19 process for rights of way use applications, with the goal of  
20 creating uniform coordinated permitting and licensing  
21 requirements statewide. The broadband office shall develop  
22 proposals for government agencies at the local, county and  
23 state levels to build and pay for broadband networks, upon  
24 request for such assistance.

25 E. The broadband office shall advise and make

1 recommendations to the department regarding proposals to use  
2 the state-owned broadband network for the purpose of  
3 connecting unserved and underserved populations of the state  
4 to internet service on the basis of open access that supports  
5 objectives of the state broadband plan; provided that:

6 (1) the department may lease a portion of  
7 the state-owned broadband network or provide internet service  
8 to a facilities-based provider that offers fixed wire  
9 broadband to end users in the state pursuant to the following  
10 conditions:

11 (a) the lease or internet service  
12 agreement shall allow the deployment of internet service to  
13 an area in which at least fifty percent of the residential  
14 and business locations are underserved or unserved;

15 (b) the broadband office shall post a  
16 notice on its website at least forty-five days prior to the  
17 execution of the lease or internet service agreement. The  
18 notice shall include: 1) the name of the facilities-based  
19 provider with which the department intends to enter into the  
20 lease or internet service agreement; 2) a statement  
21 describing the boundaries of the geographical area that will  
22 be served under the terms of the lease or internet service  
23 agreement; 3) the specifications of the broadband  
24 infrastructure or internet service that will be the subject  
25 of the lease or internet service agreement; and 4) the price

1 upon which the lease or internet service agreement shall be  
2 offered by the department;

3 (c) within the forty-five-day posting  
4 period required by Subparagraph (b) of this paragraph, no  
5 private facilities-based provider has notified the broadband  
6 office in writing that it can provide the same broadband  
7 infrastructure or internet service identified in the notice,  
8 as applicable, at a price that does not exceed one hundred  
9 ten percent of the price being offered by the department; and

10 (d) if the lease exceeds ten years, the  
11 lease is first approved by the state board of finance;

12 (2) the department may sell or otherwise  
13 transfer ownership of a portion of the state-owned broadband  
14 network pursuant to existing state law regarding the sale or  
15 disposition of such property; provided that the department  
16 and any successor in interest shall not transfer ownership of  
17 any portion of the state-owned broadband network to any  
18 wholly private entity for at least twenty years after  
19 construction of the broadband infrastructure to be sold was  
20 completed;

21 (3) the department shall not sell or  
22 otherwise deliver internet service directly to a  
23 nongovernmental end user; and

24 (4) the department shall adopt and implement  
25 rules to govern the lease or sale of state-owned broadband

1 network capacity to the private sector. The rules shall  
2 include processes that will enable a facilities-based  
3 provider to challenge a determination that an area is  
4 eligible to receive state-owned broadband network capacity."

5 SECTION 10. EFFECTIVE DATE.--The effective date of the  
6 provisions of this act is July 1, 2023. \_\_\_\_\_

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