

1 SENATE BILL 126

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Michael Padilla

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10 AN ACT

11 RELATING TO TELECOMMUNICATIONS; AMENDING SECTION 63-9H-6 NMSA
12 1978 (BEING LAWS 1999, CHAPTER 295, SECTION 6, AS AMENDED);
13 INCREASING THE AMOUNT FROM THE STATE RURAL UNIVERSAL SERVICE
14 FUND ALLOCATED TO THE BROADBAND PROGRAM FROM THIRTY MILLION
15 DOLLARS (\$30,000,000) LESS CERTAIN EXPENSES TO FORTY MILLION
16 DOLLARS (\$40,000,000) LESS CERTAIN EXPENSES; INCREASING THE CAP
17 ON OBLIGATIONS OF THE STATE RURAL UNIVERSAL SERVICE FUND PLUS
18 ADMINISTRATIVE EXPENSES AND A PRUDENT FUND BALANCE FROM THIRTY
19 MILLION DOLLARS (\$30,000,000) TO FORTY MILLION DOLLARS
20 (\$40,000,000).
21

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

23 SECTION 1. Section 63-9H-6 NMSA 1978 (being Laws 1999,
24 Chapter 295, Section 6, as amended) is amended to read:

25 "63-9H-6. STATE RURAL UNIVERSAL SERVICE FUND--

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1 ESTABLISHMENT.--

2 A. The commission shall implement and maintain a
3 "state rural universal service fund" to maintain and support
4 universal service that is provided by eligible
5 telecommunications carriers, including commercial mobile radio
6 services carriers, as are determined by the commission. As
7 used in this section, "universal service" means basic local
8 exchange service, comparable retail alternative services at
9 affordable rates, service pursuant to a low-income telephone
10 assistance plan and broadband internet access service to
11 unserved and underserved areas as determined by the commission.

12 B. The fund shall be financed by a surcharge on
13 intrastate retail public telecommunications services to be
14 determined by the commission, excluding services provided
15 pursuant to a low-income telephone assistance plan billed to
16 end-user customers by a telecommunications carrier, and
17 excluding all amounts from surcharges, gross receipts taxes,
18 excise taxes, franchise fees and similar charges. For the
19 purpose of funding the fund, the commission has the authority
20 to apply the surcharge on intrastate retail public
21 telecommunications services provided by telecommunications
22 carriers, including commercial mobile radio services and voice
23 over internet protocol services, at a competitively and
24 technologically neutral rate or rates to be determined by the
25 commission. The commission may establish the surcharge as a

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1 percentage of intrastate retail public telecommunications
2 services revenue or as a fixed amount applicable to each
3 communication connection. For purposes of this section, a
4 "communication connection" means a voice-enabled telephone
5 access line, wireless voice connection, unique voice over
6 internet protocol service connection or other uniquely
7 identifiable functional equivalent as determined by the
8 commission. Such surcharges shall be competitively and
9 technologically neutral. Money deposited in the fund is not
10 public money, and the administration of the fund is not subject
11 to the provisions of law regulating public funds. The
12 commission shall not apply this surcharge to a private
13 telecommunications network; to the state, a county, a
14 municipality or other governmental entity; to a public school
15 district; to a public institution of higher education; to an
16 Indian nation, tribe or pueblo; or to Native American customers
17 who reside on tribal or pueblo land.

18 C. The fund shall be competitively and
19 technologically neutral, equitable and nondiscriminatory in its
20 collection and distribution of funds, portable between eligible
21 telecommunications carriers and additionally shall provide a
22 specific, predictable and sufficient support mechanism as
23 determined by the commission that ensures universal service in
24 the state.

25 D. The commission shall:

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1 (1) establish eligibility criteria for
2 participation in the fund consistent with federal law that
3 ensure the availability of universal service at affordable
4 rates. The eligibility criteria shall not restrict or limit an
5 eligible telecommunications carrier from receiving federal
6 universal service support;

7 (2) provide for the collection of the
8 surcharge on a competitively neutral basis and for the
9 administration and disbursement of money from the fund;

10 (3) determine those services and areas
11 requiring support from the fund;

12 (4) provide for the separate administration
13 and disbursement of federal universal service funds consistent
14 with federal law; and

15 (5) establish affordability benchmark rates
16 for local residential and business services that shall be
17 utilized in determining the level of support from the fund.
18 The process for determining subsequent adjustments to the
19 benchmark shall be established through a rulemaking.

20 E. All incumbent telecommunications carriers and
21 competitive carriers already designated as eligible
22 telecommunications carriers for the fund shall be eligible for
23 participation in the fund. All other carriers that choose to
24 become eligible to receive support from the fund may petition
25 the commission to be designated as an eligible

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1 telecommunications carrier for the fund. The commission may
2 grant eligible carrier status to a competitive carrier in a
3 rural area upon a finding that granting the application is in
4 the public interest. In making a public interest finding, the
5 commission may consider at least the following items:

6 (1) the impact of designation of an additional
7 eligible carrier on the size of the fund;

8 (2) the unique advantages and disadvantages of
9 the competitor's service offering; and

10 (3) any commitments made regarding the quality
11 of telephone service.

12 F. The commission shall adopt rules, including a
13 provision for variances, for the implementation and
14 administration of the fund in accordance with the provisions of
15 this section. The rules shall enumerate the appropriate uses
16 of fund support and any restrictions on the use of fund support
17 by eligible telecommunications carriers. The rules shall
18 require that an eligible telecommunications carrier receiving
19 support from the fund pursuant to Subsection K, L, M or N of
20 this section must expend no less than sixty percent of the
21 support it receives to deploy and maintain broadband internet
22 access services in rural areas of the state. The rules also
23 shall provide for annual reporting by eligible
24 telecommunications carriers verifying that the reporting
25 carrier continues to meet the requirements for designation as

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1 an eligible telecommunications carrier for purposes of the fund
2 and is in compliance with the commission's rules, including the
3 provisions regarding use of support from the fund.

4 G. The commission shall, upon implementation of the
5 fund, select a neutral third-party administrator to collect,
6 administer and disburse money from the fund under the
7 supervision and control of the commission pursuant to
8 established criteria and rules promulgated by the commission.
9 The administrator may be reasonably compensated for the
10 specified services from the surcharge proceeds to be received
11 by the fund pursuant to Subsection B of this section. For
12 purposes of this subsection, the commission shall not be a
13 neutral third-party administrator.

14 H. The fund established by the commission shall
15 ensure the availability of universal service as determined by
16 the commission at affordable rates in rural areas of the state;
17 provided, however, that nothing in this section shall be
18 construed as granting any authority to the commission to impose
19 the surcharge on or otherwise regulate broadband internet
20 access services.

21 I. The commission shall ensure that intrastate
22 switched access charges are equal to interstate switched access
23 charges established by the federal communications commission as
24 of January 1, 2006. Nothing in this section shall preclude the
25 commission from considering further adjustments to intrastate

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1 switched access charges based on changes to interstate switched
2 access charges.

3 J. To ensure that providers of intrastate retail
4 communications service contribute to the fund and to further
5 ensure that the surcharge determined pursuant to Subsection B
6 of this section to be paid by the end-user customer will be
7 held to a minimum, the commission shall adopt rules, or take
8 other appropriate action, to require all such providers to
9 participate in a plan to ensure accurate reporting.

10 K. The commission shall authorize payments from the
11 fund to incumbent local exchange carriers, in combination with
12 revenue-neutral rate rebalancing up to the affordability
13 benchmark rates. Beginning in 2018, the commission shall make
14 access reduction support payments in the amount made from the
15 fund in base year 2014, adjusted each year thereafter by:

16 (1) the annual percentage change in the number
17 of access lines served by the incumbent local exchange carriers
18 receiving such support for the prior calendar year, as compared
19 to base year 2014; and

20 (2) changes in the affordability benchmark
21 rates that have occurred since 2014.

22 L. Notwithstanding the provisions of Subsection K
23 of this section, the annual amount of access reduction support
24 payments for an eligible incumbent local exchange carrier in
25 2024, 2025 and 2026 shall be equal to the annual access

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1 reduction support payments for that eligible incumbent local
2 exchange carrier for the year 2023. Access reduction support
3 payments shall be terminated after December 31, 2026.

4 M. The commission shall determine the methodology
5 to be used to authorize payments to all other carriers that
6 apply for and receive eligible carrier status; provided that:

7 (1) an eligible incumbent telecommunications
8 carrier that is not eligible for funding pursuant to rate
9 rebalancing in Subsection K of this section and that has been
10 previously authorized pursuant to Subsection N of this section
11 for need-based support may apply for ongoing fund support;

12 (2) the commission shall award an applicant
13 ongoing fund support at no less than the average access line
14 amount of funding support for comparable carriers; provided
15 that an eligible telecommunications carrier receiving fund
16 support pursuant to this subsection shall not offer basic local
17 exchange residential and business services at rate levels lower
18 than the rates for such services charged by any of the
19 comparable carriers used for the determination of the level of
20 support;

21 (3) the commission shall act upon a request
22 for ongoing fund support within one hundred twenty days of the
23 filing of the request; and

24 (4) nothing in this section shall limit the
25 commission's authority to adopt rules pursuant to Subsection F

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1 of this section regarding appropriate uses of fund support and
2 any restrictions on the use of the fund support by eligible
3 telecommunications carriers.

4 N. The commission may also authorize payments from
5 the fund to incumbent rural telecommunications carriers or to
6 telecommunications carriers providing comparable retail
7 alternative services that have been designated as eligible
8 telecommunications carriers serving in rural areas of the state
9 upon a finding, based on factors that may include a carrier's
10 regulated revenues, expenses or investment, by the commission
11 that such payments are needed to ensure the widespread
12 availability and affordability of universal service. The
13 commission shall decide cases filed pursuant to this subsection
14 with reasonable promptness, with or without a hearing, but no
15 later than six months following the filing of an application
16 seeking payments from the fund, unless the commission finds
17 that a longer time will be required, in which case the
18 commission may extend the period for an additional three
19 months.

20 O. The commission shall adopt rules that establish
21 and implement a broadband program to provide funding to
22 eligible telecommunications carriers for the construction and
23 maintenance of broadband infrastructure. Each year, an amount
24 equal to [~~thirty million dollars (\$30,000,000)~~] forty million
25 dollars (\$40,000,000) less the amounts expended pursuant to

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1 Subsections K, L, M and N of this section shall be dedicated to
2 the broadband program.

3 P. Rules adopted pursuant to Subsection O of this
4 section shall require that the commission:

5 (1) consider applications for funding on a
6 technology-neutral basis;

7 (2) submit applications for funding to the
8 connect New Mexico council for prioritization and alignment
9 with the statewide broadband plan to ensure digital equity and
10 digital inclusion; and

11 (3) require that the awards of support be
12 consistent with federal universal service support programs.

13 Q. The total obligations of the fund determined by
14 the commission pursuant to this section, plus administrative
15 expenses and a prudent fund balance, shall not exceed a cap of
16 ~~[thirty million dollars (\$30,000,000)]~~ forty million dollars
17 (\$40,000,000) per year. ~~[The commission shall evaluate the~~
18 ~~amount of the cap in an appropriate proceeding to be completed~~
19 ~~by June 30, 2019 and consider whether, based on the then-~~
20 ~~current status of the fund, the cap should be modified,~~
21 ~~maintained or eliminated.]~~

22 R. By October 1 of each year, the commission shall
23 make a report to the legislature regarding the status of the
24 fund, including:

25 (1) relevant data relating to implementation

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1 of the broadband program and the progress toward digital equity
2 and digital inclusion in rural areas of the state;

3 (2) recommendations for changes to the
4 structure, size and purposes of the fund and whether the cap on
5 the fund provided for in Subsection Q of this section should be
6 modified, maintained or eliminated; and

7 (3) the service areas that received funding
8 awards from the broadband program and the amounts of those
9 awards.

10 S. The 2025 annual report made pursuant to
11 Subsection R of this section shall include an assessment of the
12 state rural universal service fund that addresses:

13 (1) whether to repurpose the access reduction
14 support funds into the commission's broadband support program;

15 (2) a methodology for determining broadband
16 support levels that is consistent with the requirements of
17 Subsection C of this section and accounts, at a minimum, for
18 broadband costs, potential revenues from deployed
19 infrastructure and existing federal support mechanisms;

20 (3) the appropriate size of the fund;

21 (4) criteria for awarding funding;

22 (5) the impact of proposed changes on per-
23 connection assessments; and

24 (6) whether all sellers of prepaid
25 telecommunications services should be required to collect state

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1 rural universal service fund assessments at the point of sale,
2 similar to the methodology for collecting 911 emergency
3 surcharges pursuant to Section 63-9D-5 NMSA 1978."

4 SECTION 2. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2025.