

HOUSE BILL 10

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Natalie Figueroa and Joy Garratt and Susan K. Herrera and
Candie G. Sweetser and Christine Chandler

AN ACT

RELATING TO BROADBAND; ENACTING THE CONNECT NEW MEXICO ACT;
CREATING THE BROADBAND DEVELOPMENT DIVISION OF THE DEPARTMENT
OF INFORMATION TECHNOLOGY; ESTABLISHING DUTIES; ESTABLISHING
THE BROADBAND DEVELOPMENT DIVISION AS THE COORDINATOR OF STATE
BROADBAND PROGRAMS; PROVIDING FOR PLANNING; ESTABLISHING THE
CONNECT NEW MEXICO FUND; PROVIDING FOR GRANTS; REQUIRING
REPORTS; RAISING THE LEVELS OF DISBURSEMENT FOR BROADBAND FROM
THE STATE RURAL UNIVERSAL SERVICE FUND; REQUIRING THAT STATE
AGENCIES COORDINATE WITH THE BROADBAND DEVELOPMENT DIVISION
WHEN MAKING APPLICATIONS FOR FEDERAL OR OTHER FUNDING
ASSISTANCE FOR BROADBAND INFRASTRUCTURE OR FOR THE PURCHASE OF
BROADBAND INFRASTRUCTURE TO ENSURE THAT THE APPLICATIONS AND
PURCHASES ARE IN ACCORD WITH THE BROADBAND DEVELOPMENT PLAN
ESTABLISHED PURSUANT TO THE CONNECT NEW MEXICO ACT; MAKING AN
APPROPRIATION.

.218650.7

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 8 of this act may be cited as the "Connect New Mexico Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Connect New Mexico Act:

A. "2020 broadband plan" means the *State of New Mexico Broadband Strategic Plan and Rural Broadband Assessment* published by department of information technology in June 2020;

B. "broadband development plan" means a plan developed by the division that may be an updated revision of the 2020 broadband plan, including budget recommendations and recommended statutory changes for the development and expansion of broadband infrastructure and services throughout the state to:

(1) serve the continuing and growing needs of New Mexico's educational systems, governmental operations, health care systems, industry and businesses, public safety systems and residents;

(2) drive job creation, promote innovation and expand markets for New Mexico businesses; and

(3) improve accessibility for unserved and underserved communities and populations;

C. "broadband infrastructure" means any cable or

.218650.7

1 device used for high-capacity transmission of a wide range of
2 frequencies enabling a large number of electronic messages to
3 be transmitted or received simultaneously;

4 D. "department" means the department of information
5 technology;

6 E. "digital equity" means information technology
7 needed for civic and cultural participation, employment,
8 business and economic development, life-long learning and
9 access to essential services generally available to residents
10 regardless of their racial grouping, socioeconomic status or
11 cultural identity;

12 F. "digital inclusion" means access to and the
13 ability to use information technologies by all state residents;

14 G. "director" means the director of the division;

15 H. "division" means the broadband development
16 division of the department;

17 I. "federal assistance funding" means federal grant
18 and loan programs that provide full or matching funding for the
19 development or maintenance of broadband infrastructure,
20 training in the use or administration of internet-based
21 services or the purchase of computers or other devices that
22 access the internet;

23 J. "local government" means the government of a
24 municipality, county or political subdivision of the state or
25 an entity operating pursuant to a joint powers agreement

.218650.7

underscoring material = new
~~[bracketed material] = delete~~

1 pursuant to the Planning District Act or the Regional Planning
2 Act;

3 K. "public educational institution" means a public
4 school that receives state funding for its operations, a school
5 district, a public post-secondary educational institution or a
6 state agency that provides administrative services, funding or
7 technical support to public schools, school districts and
8 public post-secondary educational institutions;

9 L. "quality of service" means the standards for
10 broadband service established by the division pursuant to the
11 Connect New Mexico Act, including minimum upload and download
12 speeds established pursuant to Subsection O of this section,
13 number of days per month without service interruption and other
14 standards that the division establishes by rule;

15 M. "tribal government" means the government of a
16 federally or state-recognized Indian nation, pueblo or tribe;

17 N. "underserved" means an area or property that
18 does not receive internet quality of service access; and

19 O. "unserved" means an area or property that does
20 not receive fixed, terrestrial internet access with
21 transmission speed at the minimum defined by federal standards
22 promulgated pursuant to federal law.

23 SECTION 3. [NEW MATERIAL] BROADBAND DEVELOPMENT
24 DIVISION--REPORTS--AGENCY COORDINATION--CONSULTATION--TECHNICAL
25 AND PLANNING ASSISTANCE.--

.218650.7

underscored material = new
~~[bracketed material] = delete~~

1 A. On or before January 1, 2022, the division shall
2 provide a report to the legislative finance committee on the
3 progress and implementation of the broadband development plan.

4 B. The division shall oversee the coordination of
5 state agency broadband programs and budget requests for
6 broadband projects and may be the applicant for federal and
7 private sector broadband funding assistance for state agencies.

8 C. The division shall coordinate with all state
9 agencies and public educational institutions regarding budget
10 requests for broadband and the purchase of broadband
11 infrastructure, devices and services, with the goal of
12 implementing bulk pricing agreements.

13 D. The division shall facilitate communication and
14 coordination among local governments, public educational
15 institutions, private entities and state agencies regarding
16 infrastructure projects, with a goal toward minimizing the need
17 to re-dig trenches over the same routes to install separate
18 utility and broadband service lines.

19 E. The division shall consult and negotiate with
20 federal, local, state and tribal government agencies, with the
21 goal of creating a uniform system of permits, licenses and
22 regulation of rights of way for broadband infrastructure across
23 all governmental jurisdictions within each region of the state,
24 with the goal of creating uniform permitting and licensing
25 requirements statewide.

.218650.7

underscoring material = new
[bracketed material] = delete

1 F. The division shall provide technical and
2 planning assistance to local governments, public educational
3 institutions, state agencies and tribal governments in the
4 design, development or implementation of their own plans for
5 the development of broadband service. The division shall
6 prioritize such assistance based on a planning effort's
7 potential to serve underserved or unserved populations, promote
8 digital equity or digital inclusion or promote regional
9 planning.

10 SECTION 4. [NEW MATERIAL] QUALITY OF SERVICE STANDARDS.--

11 A. The division shall establish by rule standards
12 for quality of service for businesses, homes, state and local
13 governmental agencies and public educational institutions. In
14 establishing the quality of service standards, the division
15 shall consider standards established by federal agencies and
16 neighboring states, with the goal of ensuring that New Mexico
17 remains regionally and nationally competitive in the areas of
18 business, education and government services.

19 B. The division shall create and maintain maps
20 identifying the location of state-owned cell towers and other
21 telecommunication installations and broadband infrastructure,
22 locations where broadband infrastructure is needed and
23 identification of unserved and underserved areas on a county-
24 by-county basis.

25 SECTION 5. [NEW MATERIAL] DEVELOPMENT COORDINATION--

.218650.7

underscoring material = new
~~[bracketed material] = delete~~

1 FEDERAL AND STATE AGENCY AND LOCAL AND TRIBAL GOVERNMENT
2 OUTREACH--BROADBAND KNOWLEDGE AND DIGITAL EQUITY ANALYSIS AND
3 PLAN.--

4 A. The division may convene meetings on a regional
5 basis, with invitations to local and tribal governments, public
6 educational institutions and state agencies, to examine and
7 develop opportunities for coordinated applications for federal
8 assistance or private sector funding and for broadband
9 development investment on a regional basis.

10 B. The division shall consult local and tribal
11 governments, public educational institutions and state agencies
12 to develop a digital equity analysis and plan to address:

13 (1) the challenges to digital inclusion that
14 are posed by the lack of affordable quality service, broadband-
15 enabled devices or the knowledge of how to use the devices
16 effectively in different age, cultural or geographic
17 populations across the state;

18 (2) the federal and private sector programs
19 that could be applied to by state, local or tribal government
20 agencies to address the challenges identified in Paragraph (1)
21 of this subsection; and

22 (3) existing state programs or state programs
23 that could be established that address or could leverage
24 federal and private sector programs to address the challenges
25 identified in Paragraph (1) of this subsection.

.218650.7

1 SECTION 6. [NEW MATERIAL] BROADBAND DEVELOPMENT PLAN--

2 ADVISORY COMMITTEES--REPORTS.--

3 A. On or before September 1, 2025 and every three
4 years after that, the division shall update and revise the
5 statewide broadband development plan developed pursuant to the
6 Connect New Mexico Act and report it to the governor and the
7 legislature.

8 B. The division shall form a statewide advisory
9 committee of educational, governmental, public and private
10 sector interests to examine and develop opportunities for
11 coordinated applications for federal or private sector
12 assistance funding and to facilitate the collection of
13 information and the development of proposals for the statewide
14 broadband development plan, and all state agencies and public
15 educational institutions shall provide relevant broadband-
16 related information they have collected or developed as
17 requested by the division; provided that when a statewide
18 advisory committee is formed, agencies from at least three
19 different tribal governments shall be invited to have
20 representatives on the committee.

21 C. The division may form regional or issue-specific
22 advisory committees of appropriate educational, governmental,
23 public and private sector interests to develop regional
24 broadband planning or a plan to resolve particular broadband
25 challenges or to examine opportunities for applications for

.218650.7

underscoring material = new
~~[bracketed material] = delete~~

underscoring material = new
~~[bracketed material] = delete~~

1 federal or private sector funding assistance; provided that
2 when a regional advisory committee is formed for a region with
3 two or more tribal government jurisdictions or when an issue-
4 specific advisory committee is formed to address a challenge
5 generally faced by communities or government agencies
6 regardless of jurisdiction, agencies from at least two
7 different tribal governments shall be invited to have
8 representatives on the committee.

9 SECTION 7. [NEW MATERIAL] CONNECT NEW MEXICO FUND
10 CREATED.--

11 A. The "connect New Mexico fund" is created in the
12 state treasury. The fund consists of appropriations, gifts,
13 grants and donations. Money in the fund is subject to
14 appropriation by the legislature to the division for the
15 purpose of administering the broadband grant program.
16 Disbursements from the fund shall be made upon warrants drawn
17 by the secretary of finance and administration pursuant to
18 vouchers signed by the director or the director's designee.
19 Any unexpended and unencumbered balance in the fund remaining
20 at the end of any fiscal year shall not revert to the general
21 fund.

22 B. The division shall establish a broadband grant
23 program to develop, expand and support digital inclusion;
24 provided that:

- 25 (1) the grants shall be on a competitive

.218650.7

underscored material = new
~~[bracketed material] = delete~~

1 basis; and

2 (2) the division shall each year seek to award
3 grants for proposals submitted by each of the following:

- 4 (a) local governments;
- 5 (b) state agencies;
- 6 (c) public educational institutions; and
- 7 (d) tribal governments.

8 C. The division shall adopt rules establishing the
9 application procedure, the required qualifications for projects
10 and the purposes for which the grants may be used. In
11 approving grants, consideration shall be given to:

12 (1) the extent to which the project connects
13 unserved and underserved populations of New Mexico, with
14 priority given to projects that will connect unserved
15 populations;

16 (2) the extent to which the project leverages
17 existing infrastructure;

18 (3) the degree to which the project fosters
19 digital inclusion;

20 (4) the extent to which the project
21 complements or coordinates with the statewide broadband
22 development plan;

23 (5) the extent to which the project stimulates
24 in-state economic development, including the creation of jobs
25 and apprenticeships; and

.218650.7

underscored material = new
~~[bracketed material] = delete~~

1 (6) the extent to which the project leverages
2 in-kind or financial support from local agencies or entities.

3 SECTION 8. [NEW MATERIAL] DATA COLLECTION--ANNUAL
4 REPORT.--

5 A. By October 1 of each year, the division shall
6 provide to the appropriate legislative interim committees a
7 report on the access to and quality of service of broadband
8 across the state. Information shall be provided on a county-
9 by-county basis.

10 B. The report shall contain the following
11 information:

12 (1) progress achieved toward digital equity
13 and digital inclusion;

14 (2) progress achieved on implementation of the
15 broadband development plan;

16 (3) identified obstacles to the establishment
17 of uniform right-of-way ordinances or rules across the state;

18 (4) recommended statutory, regulatory or
19 policy changes and budget recommendations for the development
20 and expansion of broadband infrastructure and digital equity
21 and inclusion;

22 (5) the status of the creation of maps
23 pursuant to Subsection B of Section 4 of the Connect New Mexico
24 Act; and

25 (6) information on the broadband grant

.218650.7

underscoring material = new
~~[bracketed material] = delete~~

1 program, including:

- 2 (a) a list of grant recipients;
- 3 (b) the amount and date of each grant;
- 4 (c) a description of each project
- 5 funded;
- 6 (d) a description of how each project
- 7 contributes to the statewide broadband development plan and
- 8 demonstrates increased access and quality of service for the
- 9 unserved and underserved populations of New Mexico, creates
- 10 economic benefits or pilots or demonstrates new technologies or
- 11 new implementations of existing technologies; and
- 12 (e) any identified challenges to
- 13 successful grant applications.

14 SECTION 9. Section 9-4A-6 NMSA 1978 (being Laws 2004,
15 Chapter 25, Section 6, as amended) is amended to read:

16 "9-4A-6. SECRETARY--DUTIES AND GENERAL POWERS.--

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

22 B. To perform the secretary's duties, the secretary
23 has every power expressly enumerated in the laws, whether
24 granted to the secretary or the department, or any division of
25 the department, except where authority conferred upon any

.218650.7

underscored material = new
~~[bracketed material]~~ = delete

1 division therein is explicitly exempted from the secretary's
2 authority by statute. In accordance with these provisions, the
3 secretary shall:

4 (1) except as otherwise provided in the
5 Cultural Affairs Department Act, exercise general supervisory
6 and appointing authority over all department employees, subject
7 to any applicable personnel laws and rules;

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

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

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

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

25 (6) conduct research and studies that will

.218650.7

underscoring material = new
[bracketed material] = delete

1 improve the operations of the department and the provision of
2 services to the citizens of the state;

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

8 (8) prepare an annual budget of the
9 department;

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

12 (a) minimize or eliminate duplication of
13 services and jurisdictional conflicts;

14 (b) coordinate activities and resolve
15 problems of mutual concern; and

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

20 (10) appoint, with the governor's consent, for
21 each division, a "director". These appointed positions are
22 exempt from the provisions of the Personnel Act. Persons
23 appointed to these positions shall serve at the pleasure of the
24 secretary; and

25 (11) coordinate with the broadband development

.218650.7

underscored material = new
[bracketed material] = delete

1 division of the department of information technology to ensure
2 that purchases of broadband infrastructure and applications for
3 federal assistance funding and for grants from other sources
4 for broadband infrastructure are made in accordance with the
5 broadband development plan established pursuant to the Connect
6 New Mexico Act.

7 C. The secretary may:

8 (1) apply for and receive, with the
9 governor's approval, in the name of the department, any public
10 or private funds, including United States government funds,
11 available to the department to carry out its programs, duties
12 or services; and

13 (2) acquire by purchase, gift, endowment or
14 legacy real or personal property and hold title to that
15 property in the name of the department for the purpose of
16 promoting, encouraging and supporting the performing arts in
17 New Mexico. Property acquired pursuant to this paragraph shall
18 be held under the control and authority of the department.

19 D. Where functions of departments overlap, or a
20 function assigned to one department could better be performed
21 by another department, a secretary may recommend appropriate
22 legislation to the next session of the legislature for its
23 approval.

24 E. The secretary may make and adopt such reasonable
25 procedural rules as may be necessary to carry out the duties of

.218650.7

underscored material = new
~~[bracketed material]~~ = delete

1 the department and its divisions. A rule promulgated by the
2 director of a division in carrying out the functions and duties
3 of the division shall not be effective until approved by the
4 secretary. Unless otherwise provided by statute, a rule
5 affecting a person or agency outside the department shall not
6 be adopted, amended or repealed without a public hearing on the
7 proposed action before the secretary or a hearing officer
8 designated by the secretary. The public hearing shall be held
9 in Santa Fe unless otherwise permitted by statute. Notice of
10 the subject matter of the rule, the action proposed to be
11 taken, the time and place of the hearing, the manner in which
12 interested persons may present their views and the method by
13 which copies of the proposed rule or proposed amendment or
14 repeal of an existing rule may be obtained shall be published
15 once at least thirty days prior to the hearing date in a
16 newspaper of general circulation and mailed at least thirty
17 days prior to the hearing date to all persons who have made a
18 written request for advance notice of hearing. All rules shall
19 be filed in accordance with the State Rules Act.

20 F. The secretary may authorize vendors to sell
21 tickets, passes or other department products in compliance with
22 rules adopted by the secretary. A vendor authorized to sell
23 tickets, passes or other department products may retain a
24 portion of the sale price."

25 SECTION 10. Section 9-21-6 NMSA 1978 (being Laws 2004,

.218650.7

underscored material = new
~~[bracketed material]~~ = delete

1 Chapter 18, Section 6 and Laws 2004, Chapter 24, Section 6) is
2 amended to read:

3 "9-21-6. SECRETARY--DUTIES AND GENERAL POWERS.--

4 A. The secretary is responsible to the governor for
5 the operation of the department. It is the secretary's duty to
6 manage all operations of the department and to administer and
7 enforce the laws with which the secretary or the department is
8 charged.

9 B. To perform ~~[his]~~ the secretary's duties, the
10 secretary has every power expressly enumerated in the laws,
11 whether granted to the secretary or any division of the
12 department, except where authority conferred upon any division
13 in the department is explicitly exempted from the secretary's
14 authority by statute. In accordance with these provisions, the
15 secretary shall:

16 (1) except as otherwise provided in the Indian
17 Affairs Department Act, exercise general supervisory and
18 appointing authority over all department employees, subject to
19 any applicable personnel laws and rules;

20 (2) delegate authority to subordinates as
21 necessary and appropriate, clearly delineating such delegated
22 authority and the limitations thereto;

23 (3) organize the department into those
24 organizational units that will enable it to function most
25 efficiently, subject to any provisions of law requiring or

.218650.7

1 establishing specific organizational units;

2 (4) within the limitations of available
3 appropriations and applicable laws, employ and fix the
4 compensation of those persons necessary to discharge the
5 secretary's duties;

6 (5) take administrative action by issuing
7 orders and instructions, not inconsistent with the law, to
8 ensure implementation of and compliance with the provisions of
9 law with the administration or execution of which the secretary
10 is responsible, and to enforce those orders and instructions by
11 appropriate administrative action or actions in the courts;

12 (6) conduct research and studies that will
13 improve the operations of the department and the provision of
14 services to the citizens of the state;

15 (7) provide courses of instruction and
16 practical training for employees of the department and other
17 persons involved in the administration of programs with the
18 objective of improving the operations and efficiency of
19 administration;

20 (8) prepare an annual budget of the
21 department;

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

24 (a) minimize or eliminate duplication of
25 services and jurisdictional conflicts;

.218650.7

underscoring material = new
~~[bracketed material] = delete~~

1 (b) coordinate activities and resolve
2 problems of mutual concern; and

3 (c) resolve by agreement the manner and
4 extent to which the department shall provide budgeting, record-
5 keeping and related clerical assistance to administratively
6 attached agencies; ~~and~~

7 (10) appoint, with the governor's consent, for
8 each division, a "director". These appointed positions are
9 exempt from the provisions of the Personnel Act. Persons
10 appointed to these positions shall serve at the pleasure of the
11 secretary; and

12 (11) coordinate with the broadband development
13 division of the department of information technology to ensure
14 that purchases of broadband infrastructure and applications for
15 federal assistance funding and for grants from other sources
16 for broadband infrastructure are made in accordance with the
17 broadband development plan established pursuant to the Connect
18 New Mexico Act.

19 C. The secretary may apply for and receive, with
20 the governor's approval, in the name of the department, any
21 public or private funds, including United States government
22 funds, available to the department to carry out its programs,
23 duties or services.

24 D. Where functions of departments overlap, or a
25 function assigned to one department could better be performed

.218650.7

underscored material = new
~~[bracketed material]~~ = delete

1 by another department, the secretary may recommend appropriate
2 legislation to the next session of the legislature for its
3 approval.

4 E. The secretary may make and adopt such reasonable
5 procedural rules as may be necessary to carry out the duties of
6 the department and its divisions. A rule promulgated by the
7 director of a division in carrying out the functions and duties
8 of the division shall not be effective until approved by the
9 secretary. Unless otherwise provided by statute, a rule
10 affecting a person or agency outside the department shall not
11 be adopted, amended or repealed without a public hearing on the
12 proposed action before the secretary or a hearing officer
13 designated by the secretary. The public hearing shall be held
14 in Santa Fe unless otherwise permitted by statute. Notice of
15 the subject matter of the rule, the action proposed to be
16 taken, the time and place of the hearing, the manner in which
17 interested persons may present their views and the method by
18 which copies of the proposed rule or proposed amendment or
19 repeal of an existing rule may be obtained shall be published
20 once at least thirty days prior to the hearing date in a
21 newspaper of general circulation and mailed at least thirty
22 days prior to the hearing date to all persons who have made a
23 written request for advance notice of hearing. All rules shall
24 be filed in accordance with the State Rules Act."

25 SECTION 11. Section 9-24-8 NMSA 1978 (being Laws 2004,

.218650.7

underscored material = new
[bracketed material] = delete

1 Chapter 27, Section 8) is amended to read:

2 "9-24-8. SECRETARY--DUTIES AND GENERAL POWERS.--

3 A. The secretary is responsible to the governor for
4 the operation of the department. It is the secretary's duty to
5 manage all operations of the department and to administer and
6 enforce the laws with which [he] the secretary or the
7 department is charged.

8 B. To perform [his] the secretary's duties, the
9 secretary has every power expressly enumerated in the law,
10 whether granted to the secretary, the department or any
11 division of the department, except when any division is
12 explicitly exempted from the secretary's power by statute. In
13 accordance with these provisions, the secretary shall:

14 (1) except as otherwise provided in the Public
15 Education Department Act or the Public School Code, exercise
16 general supervisory and appointing power over all department
17 employees, subject to applicable personnel laws and rules;

18 (2) delegate power to subordinates as [he] the
19 secretary deems necessary and appropriate, clearly delineating
20 such delegated power and the limitations to that power;

21 (3) organize the department into
22 organizational units as necessary to enable it to function most
23 efficiently, subject to any provisions of law requiring or
24 establishing specific organizational units;

25 (4) within the limitations of available

.218650.7

underscored material = new
~~[bracketed material] = delete~~

1 appropriations and applicable laws, employ and fix the
2 compensation of those persons necessary to discharge ~~[his]~~ the
3 secretary's duties;

4 (5) take administrative action by issuing
5 orders and instructions, not inconsistent with law, to ensure
6 implementation of and compliance with the provisions of law for
7 which administration or execution ~~[he]~~ the secretary is
8 responsible and to enforce those orders and instructions by
9 appropriate administrative action in the courts;

10 (6) conduct research and studies that will
11 improve the operation of the department and the provision of
12 services to the citizens of the state;

13 (7) provide courses of instruction and
14 practical training for employees of the department and other
15 persons involved in the administration of programs with the
16 objectives of improving the operations and efficiency of
17 administration and of promoting comprehensive, coordinated and
18 culturally sensitive services that address the education of the
19 whole child;

20 (8) prepare an annual budget for the
21 department; ~~[and]~~

22 (9) provide cooperation, at the request of
23 administratively attached agencies and adjunct agencies, in
24 order to:

25 (a) minimize or eliminate duplication of

.218650.7

underscoring material = new
~~[bracketed material] = delete~~

1 services and jurisdictional conflicts;

2 (b) coordinate activities and resolve
3 problems of mutual concern; and

4 (c) resolve by agreement the manner and
5 extent to which the department shall provide budgeting, [~~record~~
6 ~~keeping~~] recordkeeping and related clerical assistance to
7 administratively attached agencies; and

8 (10) coordinate with the broadband development
9 division of the department of information technology to ensure
10 that purchases of education technology infrastructure and
11 applications for federal assistance funding and for grants from
12 other sources for education technology infrastructure are made
13 in accordance with the broadband development plan established
14 pursuant to the Connect New Mexico Act.

15 C. The secretary may apply for and receive, with
16 the governor's approval, in the name of the department, any
17 public or private funds, including United States government
18 funds, available to the department to carry out its programs,
19 duties or services.

20 D. The secretary may make and adopt such reasonable
21 and procedural rules as may be necessary to carry out the
22 duties of the department and its divisions. No rule
23 promulgated by the director of any division in carrying out the
24 functions and duties of the division shall be effective until
25 approved by the secretary. Unless otherwise provided by

.218650.7

underscored material = new
[bracketed material] = delete

1 statute, no rule affecting any person or agency outside the
2 department shall be adopted, amended or repealed without a
3 public hearing on the proposed action before the secretary or a
4 hearing officer designated by the secretary. The final public
5 hearing on adoption, amendment or repeal of a rule shall be
6 held in Santa Fe unless otherwise permitted by statute. Notice
7 of the subject matter of the rule, the action proposed to be
8 taken, the time and place of the hearing, the manner in which
9 interested persons may present their views and the method by
10 which copies of the proposed rule or proposed amendment or
11 repeal of an existing rule may be obtained shall be published
12 once at least thirty days prior to the hearing date in a
13 newspaper of general circulation and mailed at least thirty
14 days prior to the hearing date to all persons who have made a
15 written request for advance notice of hearing. All rules shall
16 be filed in accordance with the State Rules Act."

17 SECTION 12. Section 9-27-4 NMSA 1978 (being Laws 2007,
18 Chapter 290, Section 4) is amended to read:

19 "9-27-4. DEPARTMENT CREATED--DIVISIONS.--

20 A. The "department of information technology" is
21 created. The department is a cabinet department and includes
22 the following divisions:

23 (1) broadband development division;

24 [~~(1)~~] (2) program support division;

25 [~~(2)~~] (3) compliance and project management

.218650.7

underscoring material = new
[bracketed material] = delete

1 division; and

2 [~~(3)~~] (4) enterprise services division.

3 B. The secretary:

4 (1) may organize the department and the
5 divisions specified in Subsection A of this section and may
6 transfer or merge functions between divisions in the interest
7 of efficiency and economy; and

8 (2) shall develop performance measures for the
9 divisions pursuant to the Accountability in Government Act.

10 C. The broadband development division shall
11 implement and periodically update the broadband development
12 plan pursuant to the Connect New Mexico Act."

13 SECTION 13. Section 13-1-97 NMSA 1978 (being Laws 1984,
14 Chapter 65, Section 70, as amended) is amended to read:

15 "13-1-97. CENTRALIZATION OF PROCUREMENT AUTHORITY.--

16 A. All procurement for state agencies shall be
17 performed by the state purchasing agent except as otherwise
18 provided in the Procurement Code.

19 B. All procurement for state agencies excluded from
20 the requirement of procurement through the office of the state
21 purchasing agent shall be performed by a central purchasing
22 office, the chief procurement officer or as otherwise provided
23 in the Procurement Code.

24 C. All procurement for local public bodies shall be
25 performed by a central purchasing office designated by the

.218650.7

underscoring material = new
[bracketed material] = delete

1 governing authority of the local public body except as
2 otherwise provided in the Procurement Code. Local public
3 bodies shall identify their designated central purchasing
4 office to the state purchasing agent and shall report their
5 chief procurement officers to the state purchasing agent.

6 D. All procurement of broadband infrastructure by
7 state agencies shall be in coordination with the broadband
8 development division of the department of information
9 technology to ensure that purchases of broadband infrastructure
10 and applications for federal assistance funding and for grants
11 from other sources for broadband infrastructure are made in
12 accordance with the broadband development plan established
13 pursuant to the Connect New Mexico Act."

14 SECTION 14. Section 18-2-4 NMSA 1978 (being Laws 1961,
15 Chapter 126, Section 4, as amended) is amended to read:

16 "18-2-4. DUTIES OF THE STATE LIBRARIAN.--

- 17 A. The state librarian shall:
- 18 (1) administer the state library;
 - 19 (2) administer grants-in-aid and encourage
20 local library service and generally promote an effective
21 statewide library system;
 - 22 (3) make studies and surveys of public library
23 needs;
 - 24 (4) supply advice and information to existing
25 libraries and aid in the establishment of new libraries;

.218650.7

underscored material = new
[bracketed material] = delete

1 (5) obtain each year, from all libraries in
2 the state, reports showing the conditions, growth and
3 development together with such other facts and statistics
4 regarding them as are of public interest;

5 (6) cooperate with other educational services
6 and governmental agencies of the state and with library
7 agencies of other states and with national library agencies;

8 (7) cooperate with the administrative services
9 division of the cultural affairs department in preparing the
10 budget for the state library;

11 (8) administer the library extension service;

12 (9) make rules and regulations necessary to
13 administer the library division as provided by law and to
14 perform other duties as provided by law; ~~and~~

15 (10) establish and administer a library
16 depository and distribution system for state documents and
17 publications; and

18 (11) coordinate with the broadband development
19 division of the department of information technology to ensure
20 that purchases of broadband infrastructure and applications for
21 federal assistance funding and for grants from other sources
22 for broadband infrastructure are made in accordance with the
23 broadband development plan established pursuant to the Connect
24 New Mexico Act.

25 B. The state librarian may solicit and receive

.218650.7

underscored material = new
~~[bracketed material] = delete~~

1 funds or property, including federal funds and public and
2 private grants, for programs and activities administered by the
3 state librarian."

4 SECTION 15. Section 22-24-3 NMSA 1978 (being Laws 1975,
5 Chapter 235, Section 3, as amended by Laws 2018, Chapter 66,
6 Section 1 and by Laws 2018, Chapter 71, Section 2) is amended
7 to read:

8 "22-24-3. DEFINITIONS.--As used in the Public School
9 Capital Outlay Act:

10 A. "authority" means the public school facilities
11 authority;

12 B. "broadband infrastructure" means any cable or
13 device used for high-capacity transmission of a wide range of
14 frequencies enabling a large number of electronic messages to
15 be transmitted or received simultaneously;

16 ~~[B.]~~ C. "building system" means a set of
17 interacting parts that makes up a single, nonportable or fixed
18 component of a facility and that, together with other building
19 systems, makes up an entire integrated facility or property,
20 including roofing, electrical distribution, electronic
21 communication, plumbing, lighting, mechanical, fire prevention,
22 facility shell, interior finishes, heating, ventilation and air
23 conditioning systems and school security systems, as defined by
24 the council;

25 ~~[C.]~~ D. "constitutional special schools" means the

.218650.7

underscoring material = new
~~[bracketed material] = delete~~

1 New Mexico school for the blind and visually impaired and the
2 New Mexico school for the deaf;

3 ~~[D.]~~ E. "constitutional special schools support
4 spaces" means all facilities necessary to support the
5 constitutional special schools' educational mission that are
6 not included in the constitutional special schools' educational
7 adequacy standards, including performing arts centers,
8 facilities for athletic competition, school district
9 administration and facility and vehicle maintenance;

10 ~~[E.]~~ F. "council" means the public school capital
11 outlay council;

12 ~~[F.]~~ G. "education technology infrastructure" means
13 the physical hardware used to interconnect education technology
14 equipment for school districts and school buildings necessary
15 to support broadband connectivity as determined by the council;

16 ~~[G.]~~ H. "fund" means the public school capital
17 outlay fund;

18 ~~[H.]~~ I. "maximum allowable gross square foot per
19 student" means a determination made by applying the established
20 maximum allowable square foot guidelines for educational
21 facilities based on type of school and number of students in
22 the current published New Mexico public school adequacy
23 planning guide to the department's current year certified first
24 reporting date membership;

25 ~~[I.]~~ J. "replacement cost per square foot" means
.218650.7

underscored material = new
[bracketed material] = delete

1 the statewide cost per square foot as established by the
2 council;

3 ~~[J.]~~ K. "school district" includes state-chartered
4 charter schools and the constitutional special schools;

5 ~~[K.]~~ L. "school district population density" means
6 the population density on a per square mile basis of a school
7 district as estimated by the authority based on the most
8 current tract level population estimates published by the
9 United States census bureau; and

10 ~~[L.]~~ M. "school district population density factor"
11 means zero when the school district population density is
12 greater than fifty people per square mile, six-hundredths when
13 the school district population density is greater than fifteen
14 but less than fifty-one persons per square mile and twelve-
15 hundredths when the school district population density is less
16 than sixteen persons per square mile."

17 SECTION 16. Section 22-24-9 NMSA 1978 (being Laws 2003,
18 Chapter 147, Section 1, as amended) is amended to read:

19 "22-24-9. PUBLIC SCHOOL FACILITIES AUTHORITY--
20 CREATION--POWERS AND DUTIES.--

21 A. The "public school facilities authority" is
22 created under the council. The authority shall be headed by a
23 director, selected by the council, who shall be versed in
24 construction, architecture or project management. The director
25 may hire no more than two deputies with the approval of the

.218650.7

underscored material = new
~~[bracketed material] = delete~~

1 council, and, subject to budgetary constraints set out in
2 Subsection G of Section 22-24-4 NMSA 1978, shall employ or
3 contract with such technical and administrative personnel as
4 are necessary to carry out the provisions of this section. The
5 director, deputies and all other employees of the authority
6 shall be exempt from the provisions of the Personnel Act.

7 B. The authority shall:

8 (1) serve as staff to the council;

9 (2) as directed by the council, provide those
10 assistance and oversight functions required of the council by
11 Section 22-24-5.1 NMSA 1978;

12 (3) assist school districts with:

13 (a) the development and implementation
14 of five-year facilities plans and preventive maintenance plans;

15 (b) procurement of architectural and
16 engineering services;

17 (c) management and oversight of
18 construction activities; and

19 (d) training programs;

20 (4) conduct ongoing reviews of five-year
21 facilities plans, preventive maintenance plans and performance
22 pursuant to those plans;

23 (5) as directed by the council, assist school
24 districts in analyzing and assessing their space utilization
25 options;

.218650.7

1 (6) ensure that public school capital outlay
2 projects are in compliance with applicable building codes;

3 (7) conduct on-site inspections as necessary
4 to ensure that the construction specifications are being met
5 and periodically inspect all of the documents related to
6 projects;

7 (8) require the use of standardized
8 construction documents and the use of a standardized process
9 for change orders;

10 (9) have access to the premises of a project
11 and any documentation relating to the project;

12 (10) after consulting with the department,
13 recommend building standards for public school facilities to
14 the council and ensure compliance with building standards
15 adopted by the council;

16 (11) notwithstanding the provisions of
17 Subsection D of Section 22-24-6 NMSA 1978, account for all
18 distributions of grant assistance from the fund for which the
19 initial award was made after July 1, 2004, and make annual
20 reports to the department, the governor, the legislative
21 education study committee, the legislative finance committee
22 and the legislature;

23 (12) maintain a database of the condition of
24 school facilities and maintenance schedules;

25 (13) as a central purchasing office pursuant

underscoring material = new
~~[bracketed material]~~ = delete

1 to the Procurement Code and as directed by the council, select
2 contractors and enter into and administer contracts for certain
3 emergency projects funded pursuant to Subparagraph (b) of
4 Paragraph (2) of Subsection B of Section 22-24-5 NMSA 1978;
5 [~~and~~]

6 (14) ensure that outstanding deficiencies are
7 corrected pursuant to Section 22-24-4.1 NMSA 1978. In the
8 performance of this duty, the authority:

9 (a) shall work with school districts to
10 validate the assessment of the outstanding deficiencies and the
11 projected costs to correct the deficiencies;

12 (b) shall work with school districts to
13 provide direct oversight of the management and construction of
14 the projects that will correct the outstanding deficiencies;

15 (c) shall oversee all aspects of the
16 contracts entered into by the council to correct the
17 outstanding deficiencies;

18 (d) may conduct on-site inspections
19 while the deficiencies correction work is being done to ensure
20 that the construction specifications are being met and may
21 periodically inspect all of the documents relating to the
22 projects;

23 (e) may require the use of standardized
24 construction documents and the use of a standardized process
25 for change orders;

.218650.7

underscored material = new
[bracketed material] = delete

1 (f) may access the premises of a project
2 and any documentation relating to the project; and

3 (g) shall maintain, track and account
4 for deficiency correction projects separately from other
5 capital outlay projects funded pursuant to the Public School
6 Capital Outlay Act; and

7 (15) coordinate with the broadband development
8 division of the department of information technology to ensure
9 that purchases of broadband infrastructure and applications for
10 federal assistance funding and for grants from other sources
11 are made in accordance with the broadband development plan
12 established pursuant to the Connect New Mexico Act.

13 C. All actions taken by the authority shall be
14 consistent with educational programs conducted pursuant to the
15 Public School Code. In the event of any potential or perceived
16 conflict between a proposed action of the authority and an
17 educational program, the authority shall consult with the
18 secretary.

19 D. A school district, aggrieved by a decision or
20 recommendation of the authority, may appeal the matter to the
21 council by filing a notice of appeal with the council within
22 thirty days of the authority's decision or recommendation.

23 Upon filing of the notice:

24 (1) the decision or recommendation of the
25 authority shall be suspended until the matter is decided by the

.218650.7

underscored material = new
[bracketed material] = delete

1 council;

2 (2) the council shall hear the matter at its
3 next regularly scheduled hearing or at a special hearing called
4 by the chair for that purpose;

5 (3) at the hearing, the school district, the
6 authority and other interested parties may make informal
7 presentations to the council; and

8 (4) the council shall finally decide the
9 matter within ten days after the hearing."

10 SECTION 17. Section 63-9H-3 NMSA 1978 (being Laws 1999,
11 Chapter 295, Section 3, as amended) is amended to read:

12 "63-9H-3. DEFINITIONS.--As used in the Rural
13 Telecommunications Act of New Mexico:

14 A. "affordable rates" means rates for basic service
15 that promote universal service within a local exchange service
16 area, giving consideration to the economic conditions and costs
17 to provide service in the area in which service is provided;

18 B. "basic service" means service that is provided
19 to a rural end-user customer that is consistent with the
20 federal act;

21 C. "broadband infrastructure" means any cable or
22 device used for high-capacity transmission over a wide range of
23 frequencies that enables a large number of electronic messages
24 to be transmitted or received simultaneously;

25 [~~E.~~] D. "cable service" means the transmission to

.218650.7

underscoring material = new
[bracketed material] = delete

1 subscribers of video programming or other programming service
2 and subscriber interaction, if any, that is required for the
3 selection or use of the video programming or other programming
4 service;

5 ~~[D.]~~ E. "commission" means the public regulation
6 commission;

7 F. "digital equity" means information technology
8 needed for civic and cultural participation, employment,
9 business and economic development, life-long learning and
10 access to essential services generally available to residents
11 regardless of their racial grouping, socioeconomic status or
12 cultural identity;

13 G. "digital inclusion" means access to and the
14 ability to use information technology by all residents of New
15 Mexico;

16 ~~[E.]~~ H. "eligible telecommunications carrier" means
17 an eligible telecommunications carrier as defined in the
18 federal act;

19 ~~[F.]~~ I. "federal act" means the federal
20 Telecommunications Act of 1996;

21 ~~[G.]~~ J. "fund" means the state rural universal
22 service fund;

23 ~~[H.]~~ K. "incumbent local exchange carrier" means a
24 person that:

25 (1) was designated as an eligible

.218650.7

underscored material = new
[bracketed material] = delete

1 telecommunications carrier by the state corporation commission
2 in Docket #97-93-TC by order dated October 23, 1997, or that
3 provided local exchange service in this state on February 8,
4 1996; or

5 (2) became a successor or assignee of an
6 incumbent local exchange carrier;

7 [~~F.~~] L. "incumbent rural telecommunications
8 carrier" means an incumbent local exchange carrier that serves
9 fewer than fifty thousand access lines within the state and has
10 been designated as an eligible telecommunications carrier by
11 the state corporation commission or the public [~~regulations~~]
12 regulation commission;

13 [~~J.~~] M. "local exchange area" means a geographic
14 area encompassing one or more local communities, as described
15 in maps, tariffs or rate schedules filed with the commission,
16 where local exchange rates apply;

17 [~~K.~~] N. "local exchange service" means the
18 transmission of two-way interactive switched voice
19 communications furnished by a telecommunications carrier within
20 a local exchange area;

21 [~~L.~~] O. "long distance service" means
22 telecommunications service between local exchange areas that
23 originate and terminate within the state;

24 P. "division" means the broadband development
25 division of the department of information technology;

.218650.7

underscoring material = new
~~[bracketed material]~~ = delete

1 [M-] Q. "private telecommunications service" means
2 a system, including its construction, maintenance or operation
3 for the provision of telecommunications service, or any portion
4 of that service, by a person for the sole and exclusive use of
5 that person and not for resale, directly or indirectly. For
6 purposes of this definition, the person that may use the
7 service includes any affiliates of the person if at least
8 eighty percent of the assets or voting stock of the affiliates
9 is owned by the person. If any other person uses the
10 telecommunications service, whether for hire or not, the
11 private telecommunications service is a public
12 telecommunications service;

13 [N-] R. "public telecommunications service" means
14 the transmission of signs, signals, writings, images, sounds,
15 messages, data or other information of any nature by wire,
16 radio, lightwaves or other electromagnetic means originating
17 and terminating in this state regardless of actual call
18 routing. "Public telecommunications service" does not include
19 the provision of terminal equipment used to originate or
20 terminate the service; private telecommunications service;
21 broadcast transmissions by radio, television and satellite
22 broadcast stations regulated by the federal communications
23 commission; radio common carrier services, including mobile
24 telephone service and radio paging; or cable service; and

25 [Θ-] S. "telecommunications carrier" means a person

.218650.7

underscoring material = new
~~[bracketed material] = delete~~

1 that provides public telecommunications service."

2 SECTION 18. Section 63-9H-6 NMSA 1978 (being Laws 1999,
3 Chapter 295, Section 6, as amended) is amended to read:

4 "63-9H-6. STATE RURAL UNIVERSAL SERVICE FUND--
5 ESTABLISHMENT.--

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

16 B. The fund shall be financed by a surcharge on
17 intrastate retail public telecommunications services to be
18 determined by the commission, excluding services provided
19 pursuant to a low-income telephone assistance plan billed to
20 end-user customers by a telecommunications carrier, and
21 excluding all amounts from surcharges, gross receipts taxes,
22 excise taxes, franchise fees and similar charges. For the
23 purpose of funding the fund, the commission has the authority
24 to apply the surcharge on intrastate retail public
25 telecommunications services provided by telecommunications

.218650.7

underscoring material = new
~~[bracketed material]~~ = delete

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

22 C. The fund shall be competitively and
23 technologically neutral, equitable and nondiscriminatory in its
24 collection and distribution of funds, portable between eligible
25 telecommunications carriers and additionally shall provide a

.218650.7

underscoring material = new
~~[bracketed material] = delete~~

1 specific, predictable and sufficient support mechanism as
2 determined by the commission that ensures universal service in
3 the state.

4 D. The commission shall:

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

11 (2) provide for the collection of the
12 surcharge on a competitively neutral basis and for the
13 administration and disbursement of money from the fund;

14 (3) determine those services and areas
15 requiring support from the fund;

16 (4) provide for the separate administration
17 and disbursement of federal universal service funds consistent
18 with federal law; and

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

24 E. All incumbent telecommunications carriers and
25 competitive carriers already designated as eligible

.218650.7

underscoring material = new
~~[bracketed material]~~ = delete

1 telecommunications carriers for the fund shall be eligible for
2 participation in the fund. All other carriers that choose to
3 become eligible to receive support from the fund may petition
4 the commission to be designated as an eligible
5 telecommunications carrier for the fund. The commission may
6 grant eligible carrier status to a competitive carrier in a
7 rural area upon a finding that granting the application is in
8 the public interest. In making a public interest finding, the
9 commission may consider at least the following items:

10 (1) the impact of designation of an additional
11 eligible carrier on the size of the fund;

12 (2) the unique advantages and disadvantages of
13 the competitor's service offering; and

14 (3) any commitments made regarding the quality
15 of telephone service.

16 F. The commission shall adopt rules, including a
17 provision for variances, for the implementation and
18 administration of the fund in accordance with the provisions of
19 this section. The rules shall enumerate the appropriate uses
20 of fund support and any restrictions on the use of fund support
21 by eligible telecommunications carriers. The rules shall
22 require that an eligible telecommunications carrier receiving
23 support from the fund pursuant to Subsection K, L or M of this
24 section must expend no less than ~~[sixty]~~ ninety percent of the
25 support it receives to deploy and maintain broadband internet

.218650.7

underscoring material = new
~~[bracketed material] = delete~~

1 access services in rural areas of the state. The rules also
2 shall provide for annual reporting by eligible
3 telecommunications carriers verifying that the reporting
4 carrier continues to meet the requirements for designation as
5 an eligible telecommunications carrier for purposes of the fund
6 and is in compliance with the commission's rules, including the
7 provisions regarding use of support from the fund.

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

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

25 I. The commission shall ensure that intrastate

.218650.7

underscored material = new
~~[bracketed material]~~ = delete

1 switched access charges are equal to interstate switched access
2 charges established by the federal communications commission as
3 of January 1, 2006. Nothing in this section shall preclude the
4 commission from considering further adjustments to intrastate
5 switched access charges based on changes to interstate switched
6 access charges.

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

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

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

24 (2) changes in the affordability benchmark
25 rates that have occurred since 2014.

.218650.7

underscored material = new
~~[bracketed material] = delete~~

1 L. The commission shall determine the methodology
2 to be used to authorize payments to all other carriers that
3 apply for and receive eligible carrier status; provided,
4 however, that nothing in this section shall limit the
5 commission's authority to adopt rules pursuant to Subsection F
6 of this section regarding appropriate uses of fund support and
7 any restrictions on the use of the fund support by eligible
8 telecommunications carriers.

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

25 N. The commission shall adopt rules that establish

.218650.7

underscored material = new
[bracketed material] = delete

1 and implement a broadband program to provide funding to
2 eligible telecommunications carriers for the construction and
3 maintenance of [~~facilities capable of providing broadband~~
4 ~~internet access service.~~ Such rules shall require that the
5 ~~commission consider applications for funding on a technology-~~
6 ~~neutral basis and shall require that the awards of support be~~
7 ~~consistent with federal universal service support programs and~~
8 ~~be based on the best use of the fund for rural areas of the~~
9 ~~state]~~ broadband infrastructure. Each year, a minimum of [~~five~~
10 ~~million dollars (\$5,000,000)]~~ ten million dollars (\$10,000,000)
11 of the fund shall be dedicated to the broadband program.

12 0. Rules adopted pursuant to Subsection N of this
13 section shall require that the commission:

14 (1) consider applications for funding on a
15 technology-neutral basis;

16 (2) consult with the division to ensure that
17 awards of support from the fund are in accord with the
18 broadband development plan established pursuant to the Connect
19 New Mexico Act to the extent otherwise allowed by the Rural
20 Telecommunications Act of New Mexico;

21 (3) prioritize applications that support the
22 construction and maintenance of broadband infrastructure that
23 increases digital equity and digital inclusion in rural areas;
24 and

25 (4) require that the awards of support be

.218650.7

underscored material = new
[bracketed material] = delete

1 consistent with federal universal service support programs.

2 [Ø-] P. The total obligations of the fund
3 determined by the commission pursuant to this section, plus
4 administrative expenses and a prudent fund balance, shall not
5 exceed a cap of thirty million dollars (\$30,000,000) per year.
6 The commission shall evaluate the amount of the cap in an
7 appropriate proceeding to be completed by June 30, 2019 and
8 consider whether, based on the then-current status of the fund,
9 the cap should be modified, maintained or eliminated.

10 [P. ~~By December 31, 2019~~] Q. By October 1 of each
11 year, the commission shall make a report to the legislature
12 regarding the status of the fund, including:

13 (1) relevant data relating to implementation
14 of the broadband program and [~~expansion of broadband internet~~
15 ~~access services~~] the progress toward digital equity and digital
16 inclusion in rural areas of the state; [~~The report shall also~~
17 ~~make~~]

18 (2) recommendations for [~~any~~] changes to the
19 structure, size and purposes of the fund and whether the cap on
20 the fund provided for in Subsection [Ø] P of this section
21 should be modified, maintained or eliminated; and

22 (3) the service areas that received funding
23 awards from the broadband program and the amounts of those
24 awards."

25 SECTION 19. Section 67-3-8 NMSA 1978 (being Laws 1967,

.218650.7

underscored material = new
~~[bracketed material]~~ = delete

1 Chapter 266, Section 7, as amended) is amended to read:

2 "67-3-8. POWERS AND DUTIES OF SECRETARY.--The secretary
3 shall:

4 A. serve as the chief staff officer of the state
5 transportation commission and shall be responsible to the
6 commission for the operations and management of the work of the
7 department;

8 B. organize the department in such a manner as to
9 properly conduct the work of the department;

10 C. establish six highway construction districts
11 with the approval of the state transportation commission. The
12 secretary shall designate a district engineer in each
13 construction district to supervise and manage the operations of
14 the district. The district engineer shall be a professional
15 engineer. The authority and responsibility for the actual
16 construction for all construction projects within the district
17 shall be delegated to the district engineer. District
18 engineers shall attend state transportation commission
19 meetings;

20 D. in accordance with the provisions of the
21 Personnel Act, employ such assistants and employees as may be
22 required for the efficient operation of the department, each of
23 whom shall possess all the qualifications that may be
24 prescribed for such position; provided that, notwithstanding
25 the provisions of the Personnel Act, no more than five division

.218650.7

underscoring material = new
[bracketed material] = delete

1 directors shall be covered by and subject to the Personnel Act;

2 E. observe, administer and enforce the provisions
3 of law now existing or hereafter enacted that pertain to the
4 state highways, the state transportation commission or the
5 department; ~~and~~

6 F. ensure that any behavioral health services,
7 including mental health and substance abuse services, provided,
8 contracted for or approved are in compliance with the
9 requirements of Section 9-7-6.4 NMSA 1978; and

10 G. coordinate with the broadband development
11 division of the department of information technology to ensure
12 that purchases of broadband infrastructure and applications for
13 federal assistance funding and for grants from other sources
14 for broadband infrastructure are made in accordance with the
15 broadband development plan established pursuant to the Connect
16 New Mexico Act."

17 SECTION 20. APPROPRIATION.--Nine hundred fifty thousand
18 dollars (\$950,000) is appropriated from the general fund to the
19 department of information technology for expenditure in fiscal
20 year 2022 and subsequent fiscal years to implement the Connect
21 New Mexico Act. Any unexpended or unencumbered balance
22 remaining at the end of a fiscal year shall not revert to the
23 general fund.

24 SECTION 21. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2021.

.218650.7