

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE TRANSPORTATION, PUBLIC WORKS AND CAPITAL IMPROVEMENTS
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 10

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

AN ACT

RELATING TO BROADBAND; ENACTING THE CONNECT NEW MEXICO ACT;
CREATING THE BROADBAND DEVELOPMENT DIVISION OF THE DEPARTMENT
OF INFORMATION TECHNOLOGY; CREATING THE CONNECT NEW MEXICO
COUNCIL; ESTABLISHING DUTIES; ESTABLISHING THE CONNECT NEW
MEXICO COUNCIL 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.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 10 of this act may be cited as the "Connect New Mexico
Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
.220163.3

underscored material = new
[bracketed material] = delete

1 Connect New Mexico Act:

2 A. "2020 broadband plan" means the *State of New*
3 *Mexico Broadband Strategic Plan and Rural Broadband Assessment*
4 published by the department of information technology in June
5 2020;

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

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

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

17 (3) support internet-reliant state, local and
18 tribal government agency functions and facilitate the delivery
19 of governmental services in a manner that is competitive with
20 similar government agencies in neighboring states; and

21 (4) improve accessibility for unserved and
22 underserved communities and populations;

23 C. "broadband infrastructure" means any cable or
24 device used for high-capacity transmission of a wide range of
25 frequencies enabling a large number of electronic messages to

.220163.3

1 be transmitted or received simultaneously;

2 D. "council" means the connect New Mexico council;

3 E. "department" means the department of information
4 technology;

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

11 G. "digital inclusion" means access to and the
12 ability to use information technologies;

13 H. "division" means the broadband development
14 division of the department;

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

21 J. "local government" means the government of a
22 municipality, county or political subdivision of the state or
23 an entity operating pursuant to a joint powers agreement
24 pursuant to the Planning District Act or the Regional Planning
25 Act;

.220163.3

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

7 L. "quality of service" means the standards for
8 broadband service established by the division pursuant to the
9 Connect New Mexico Act that meet or exceed the baseline
10 standards established by the federal communications commission;

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

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

15 O. "unserved" means an area or property that does
16 not have internet access that meets the baseline standards
17 established by the federal communications commission.

18 SECTION 3. [NEW MATERIAL] BROADBAND DEVELOPMENT
19 DIVISION--AGENCY COORDINATION--CONSULTATION--TECHNICAL AND
20 PLANNING ASSISTANCE.--

21 A. The division shall implement the broadband
22 development plan.

23 B. The division shall adopt rules establishing a
24 competitive grant program to receive funds from the connect New
25 Mexico fund. The rules shall include the application

.220163.3

1 procedure, the required qualifications for projects and the
2 purposes for which the grants may be used. In approving
3 grants, consideration shall be given to:

4 (1) the extent to which the project connects
5 unserved and underserved populations of New Mexico, with
6 priority given to projects that will connect unserved
7 populations;

8 (2) the extent to which the project leverages
9 existing infrastructure;

10 (3) the extent to which the project
11 complements or coordinates with the broadband development plan;

12 (4) the extent to which the project leverages
13 regional collaboration;

14 (5) the degree to which the project fosters
15 digital inclusion;

16 (6) the extent to which the project stimulates
17 in-state economic development, including the creation of jobs
18 and apprenticeships; and

19 (7) the extent to which the project leverages
20 in-kind or financial support from local agencies or entities,
21 federal assistance funding or federal Coronavirus Aid, Relief,
22 and Economic Security Act or federal Consolidation
23 Appropriations Act, 2021, funding.

24 C. The division shall staff the council and provide
25 technical expertise for the grant selection process.

.220163.3

1 D. 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 grant
5 proposals to the connect New Mexico fund and plans for the
6 development of broadband service. The division shall
7 prioritize such assistance based on a planning effort's
8 potential to serve underserved or unserved populations, promote
9 digital equity or digital inclusion or promote regional
10 planning.

11 E. The division shall provide technical assistance
12 to support entities awarded grants to achieve the purposes of
13 the Connect New Mexico Act.

14 F. The division may be the applicant for federal
15 and private sector broadband funding assistance for state
16 agencies.

17 G. The division shall coordinate with all state
18 agencies and public educational institutions regarding budget
19 requests for broadband and the purchase of broadband
20 infrastructure, devices and services, with the goal of
21 implementing bulk pricing agreements or as otherwise required
22 by the funding source.

23 H. The division shall facilitate communication and
24 coordination among local governments, public educational
25 institutions, private entities and state agencies regarding

.220163.3

1 infrastructure projects, with a goal toward minimizing the need
 2 to duplicate infrastructure efforts and support regional
 3 planning.

4 I. The division shall consult and negotiate with
 5 federal, local, state and tribal government agencies, with the
 6 goal of creating a uniform system of permits, licenses and
 7 regulation of rights of way for broadband infrastructure across
 8 all governmental jurisdictions within each region of the state,
 9 with the goal of creating uniform permitting and licensing
 10 requirements statewide.

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

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

20 B. The division shall use the mapping resources of
 21 the department to identify the location of state-owned cell
 22 towers and other telecommunication installations and broadband
 23 infrastructure, locations where broadband infrastructure is
 24 needed and identification of unserved and underserved areas on
 25 a county-by-county basis.

.220163.3

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

1 SECTION 5. [NEW MATERIAL] DEVELOPMENT COORDINATION--
2 FEDERAL AND STATE AGENCY AND LOCAL AND TRIBAL GOVERNMENT
3 OUTREACH--BROADBAND KNOWLEDGE AND DIGITAL EQUITY ANALYSIS AND
4 PLAN.--

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

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

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

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

23 (3) existing state programs or state programs
24 that could be established that address or could leverage
25 federal and private sector programs to address the challenges

.220163.3

1 identified in Paragraph (1) of this subsection.

2 SECTION 6. [NEW MATERIAL] BROADBAND DEVELOPMENT PLAN--
3 REPORTS.--

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

9 B. To encourage regional collaboration and the
10 development of broadband grant proposals, the division may form
11 regional or issue-specific advisory committees of appropriate
12 educational, governmental and public and private sector
13 interests; provided that when a regional advisory committee is
14 formed for a region with two or more tribal government
15 jurisdictions, an agency from each different tribal government
16 shall be invited to have representatives on the committee.

17 SECTION 7. [NEW MATERIAL] COUNCIL CREATED--POWERS.--

18 A. The "connect New Mexico council" is created and
19 administratively attached to the department.

20 B. The council is composed of the following
21 thirteen members:

22 (1) the secretary of economic development or
23 the secretary's designee;

24 (2) the secretary of cultural affairs or the
25 secretary's designee;

.220163.3

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

1 (3) the secretary of information technology or
2 the secretary's designee;

3 (4) the executive director of the New Mexico
4 mortgage finance authority or the executive director's
5 designee;

6 (5) the secretary of higher education or the
7 secretary's designee;

8 (6) the director of the public school
9 facilities authority or the director's designee;

10 (7) the president of the Navajo Nation or the
11 president's designee;

12 (8) four members of the public who have
13 experience with broadband access and connectivity challenges
14 for either private business or public institutions, appointed
15 as follows:

16 (a) one member appointed by the speaker
17 of the house of representatives;

18 (b) one member appointed by the minority
19 floor leader in the house of representatives;

20 (c) one member appointed by the
21 president pro tempore of the senate; and

22 (d) one member appointed by the minority
23 floor leader in the senate; and

24 (9) two public members who are experienced
25 with broadband access and connectivity issues for an Indian

.220163.3

1 nation, tribe or pueblo appointed by the tribal infrastructure
2 board.

3 C. The chair of the council shall be elected by a
4 quorum of the council members. The council shall meet monthly
5 or at the call of the chair. A majority of members constitutes
6 a quorum for the transaction of business. The affirmative vote
7 of at least a majority of a quorum present shall be necessary
8 for an action to be taken by the council.

9 D. Each member of the council appointed pursuant to
10 Paragraph (8) or (9) of Subsection A of this section shall be
11 appointed to a four-year term; provided that to provide for
12 staggered terms:

13 (1) two of the members initially appointed
14 pursuant to Paragraph (8) of Subsection A of this section shall
15 be appointed for a term of two years; and

16 (2) one member initially appointed pursuant to
17 Paragraph (9) of Subsection A of this section shall be
18 initially appointed for a term of two years.

19 E. Public members of the council shall be
20 reimbursed for attending meetings of the council as provided
21 for nonsalaried public officers in the Per Diem and Mileage Act
22 and shall receive no other compensation, perquisite or
23 allowance.

24 F. Public members of the council are appointed
25 public officials of the state while carrying out their duties

.220163.3

1 and activities under the Connect New Mexico Act.

2 G. Council members shall be governed by the
3 Governmental Conduct Act.

4 SECTION 8. [NEW MATERIAL] COUNCIL--DUTIES.--The council
5 shall:

6 A. evaluate grant proposals and make grant awards
7 from the connect New Mexico fund based on criteria established
8 in Section 9 of the Connect New Mexico Act; and

9 B. coordinate state agency broadband programs and
10 broadband projects in accordance with the broadband development
11 plan.

12 SECTION 9. [NEW MATERIAL] CONNECT NEW MEXICO FUND
13 CREATED.--

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

24 B. The council shall implement the broadband grant
25 program to develop, expand and support digital inclusion;

.220163.3

1 provided that the council shall each year seek to award grants
2 for proposals submitted by the following entities throughout
3 the state:

- 4 (1) local governments;
- 5 (2) state agencies;
- 6 (3) public educational institutions;
- 7 (4) tribal governments; and
- 8 (5) entities created by a joint powers
9 agreement pursuant to the Joint Powers Agreements Act.

10 SECTION 10. [NEW MATERIAL] DATA COLLECTION--ANNUAL
11 REPORT.--

12 A. By October 1 of each year, the division shall
13 provide to the appropriate legislative interim committees a
14 report on the access to and quality of service of broadband
15 across the state. Information shall be provided on a county-
16 by-county basis.

17 B. The report shall contain the following
18 information:

- 19 (1) progress achieved toward digital equity
20 and digital inclusion;
- 21 (2) progress achieved on implementation of the
22 broadband development plan;
- 23 (3) identified obstacles to the establishment
24 of uniform right-of-way ordinances or rules across the state;
- 25 (4) recommended statutory, regulatory or

.220163.3

1 policy changes and budget recommendations for the development
2 and expansion of broadband infrastructure and digital equity
3 and inclusion; and

4 (5) information on the broadband grant
5 program, including:

6 (a) a list of grant recipients;
7 (b) the amount and date of each grant;
8 (c) a description of each project
9 funded;

10 (d) a description of how each project
11 contributes to the broadband development plan and demonstrates
12 increased access and quality of service for the unserved and
13 underserved populations of New Mexico, creates economic
14 benefits or pilots or demonstrates new technologies or new
15 implementations of existing technologies; and

16 (e) any identified challenges to
17 successful grant applications or barriers that limit the
18 ability of entities being able to submit grant applications.

19 SECTION 11. Section 9-27-4 NMSA 1978 (being Laws 2007,
20 Chapter 290, Section 4) is amended to read:

21 "9-27-4. DEPARTMENT CREATED--DIVISIONS.--

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

25 (1) broadband development division;

.220163.3

1 [~~(1)~~] (2) program support division;
2 [~~(2)~~] (3) compliance and project management
3 division; and
4 [~~(3)~~] (4) enterprise services division.

5 B. The secretary:

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

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

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

15 SECTION 12. Section 63-9H-3 NMSA 1978 (being Laws 1999,
16 Chapter 295, Section 3, as amended) is amended to read:

17 "63-9H-3. DEFINITIONS.--As used in the Rural
18 Telecommunications Act of New Mexico:

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

23 B. "basic service" means service that is provided
24 to a rural end-user customer that is consistent with the
25 federal act;

.220163.3

1 C. "broadband development plan" means a plan
2 developed or revised by the division pursuant to Subsection B
3 of Section 2 of the Connect New Mexico Act;

4 D. "broadband infrastructure" means any cable or
5 device used for high-capacity transmission over a wide range of
6 frequencies that enables a large number of electronic messages
7 to be transmitted or received simultaneously;

8 ~~[E-]~~ E. "cable service" means the transmission to
9 subscribers of video programming or other programming service
10 and subscriber interaction, if any, that is required for the
11 selection or use of the video programming or other programming
12 service;

13 ~~[D-]~~ F. "commission" means the public regulation
14 commission;

15 G. "digital equity" means information technology
16 needed for civic and cultural participation, employment,
17 education, business and economic development, lifelong learning
18 and access to essential services generally available to
19 residents regardless of their racial grouping, socioeconomic
20 status or cultural identity;

21 H. "digital inclusion" means access to and the
22 ability to use information technologies;

23 I. "division" means the broadband development
24 division of the department of information technology;

25 ~~[E-]~~ J. "eligible telecommunications carrier" means

1 an eligible telecommunications carrier as defined in the
2 federal act;

3 ~~[F.]~~ K. "federal act" means the federal
4 Telecommunications Act of 1996;

5 ~~[G.]~~ L. "fund" means the state rural universal
6 service fund;

7 ~~[H.]~~ M. "incumbent local exchange carrier" means a
8 person that:

9 (1) was designated as an eligible
10 telecommunications carrier by the state corporation commission
11 in Docket #97-93-TC by order dated October 23, 1997, or that
12 provided local exchange service in this state on February 8,
13 1996; or

14 (2) became a successor or assignee of an
15 incumbent local exchange carrier;

16 ~~[I.]~~ N. "incumbent rural telecommunications
17 carrier" means an incumbent local exchange carrier that serves
18 fewer than fifty thousand access lines within the state and has
19 been designated as an eligible telecommunications carrier by
20 the state corporation commission or the public ~~[regulations]~~
21 regulation commission;

22 ~~[J.]~~ O. "local exchange area" means a geographic
23 area encompassing one or more local communities, as described
24 in maps, tariffs or rate schedules filed with the commission,
25 where local exchange rates apply;

.220163.3

1 [~~K-~~] P. "local exchange service" means the
2 transmission of two-way interactive switched voice
3 communications furnished by a telecommunications carrier within
4 a local exchange area;

5 [~~L-~~] Q. "long distance service" means
6 telecommunications service between local exchange areas that
7 originate and terminate within the state;

8 [~~M-~~] R. "private telecommunications service" means
9 a system, including its construction, maintenance or operation
10 for the provision of telecommunications service, or any portion
11 of that service, by a person for the sole and exclusive use of
12 that person and not for resale, directly or indirectly. For
13 purposes of this definition, the person that may use the
14 service includes any affiliates of the person if at least
15 eighty percent of the assets or voting stock of the affiliates
16 is owned by the person. If any other person uses the
17 telecommunications service, whether for hire or not, the
18 private telecommunications service is a public
19 telecommunications service;

20 [~~N-~~] S. "public telecommunications service" means
21 the transmission of signs, signals, writings, images, sounds,
22 messages, data or other information of any nature by wire,
23 radio, lightwaves or other electromagnetic means originating
24 and terminating in this state regardless of actual call
25 routing. "Public telecommunications service" does not include

.220163.3

1 the provision of terminal equipment used to originate or
2 terminate the service; private telecommunications service;
3 broadcast transmissions by radio, television and satellite
4 broadcast stations regulated by the federal communications
5 commission; radio common carrier services, including mobile
6 telephone service and radio paging; or cable service; and

7 ~~[0.]~~ T. "telecommunications carrier" means a person
8 that provides public telecommunications service."

9 **SECTION 13.** Section 63-9H-6 NMSA 1978 (being Laws 1999,
10 Chapter 295, Section 6, as amended) is amended to read:

11 "63-9H-6. STATE RURAL UNIVERSAL SERVICE FUND--
12 ESTABLISHMENT.--

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

23 B. The fund shall be financed by a surcharge on
24 intrastate retail public telecommunications services to be
25 determined by the commission, excluding services provided

.220163.3

1 pursuant to a low-income telephone assistance plan billed to
2 end-user customers by a telecommunications carrier, and
3 excluding all amounts from surcharges, gross receipts taxes,
4 excise taxes, franchise fees and similar charges. For the
5 purpose of funding the fund, the commission has the authority
6 to apply the surcharge on intrastate retail public
7 telecommunications services provided by telecommunications
8 carriers, including commercial mobile radio services and voice
9 over internet protocol services, at a competitively and
10 technologically neutral rate or rates to be determined by the
11 commission. The commission may establish the surcharge as a
12 percentage of intrastate retail public telecommunications
13 services revenue or as a fixed amount applicable to each
14 communication connection. For purposes of this section, a
15 "communication connection" means a voice-enabled telephone
16 access line, wireless voice connection, unique voice over
17 internet protocol service connection or other uniquely
18 identifiable functional equivalent as determined by the
19 commission. Such surcharges shall be competitively and
20 technologically neutral. Money deposited in the fund is not
21 public money, and the administration of the fund is not subject
22 to the provisions of law regulating public funds. The
23 commission shall not apply this surcharge to a private
24 telecommunications network; to the state, a county, a
25 municipality or other governmental entity; to a public school

.220163.3

1 district; to a public institution of higher education; to an
2 Indian nation, tribe or pueblo; or to Native American customers
3 who reside on tribal or pueblo land.

4 C. The fund shall be competitively and
5 technologically neutral, equitable and nondiscriminatory in its
6 collection and distribution of funds, portable between eligible
7 telecommunications carriers and additionally shall provide a
8 specific, predictable and sufficient support mechanism as
9 determined by the commission that ensures universal service in
10 the state.

11 D. The commission shall:

12 (1) establish eligibility criteria for
13 participation in the fund consistent with federal law that
14 ensure the availability of universal service at affordable
15 rates. The eligibility criteria shall not restrict or limit an
16 eligible telecommunications carrier from receiving federal
17 universal service support;

18 (2) provide for the collection of the
19 surcharge on a competitively neutral basis and for the
20 administration and disbursement of money from the fund;

21 (3) determine those services and areas
22 requiring support from the fund;

23 (4) provide for the separate administration
24 and disbursement of federal universal service funds consistent
25 with federal law; and

.220163.3

1 (5) establish affordability benchmark rates
2 for local residential and business services that shall be
3 utilized in determining the level of support from the fund.
4 The process for determining subsequent adjustments to the
5 benchmark shall be established through a rulemaking.

6 E. All incumbent telecommunications carriers and
7 competitive carriers already designated as eligible
8 telecommunications carriers for the fund shall be eligible for
9 participation in the fund. All other carriers that choose to
10 become eligible to receive support from the fund may petition
11 the commission to be designated as an eligible
12 telecommunications carrier for the fund. The commission may
13 grant eligible carrier status to a competitive carrier in a
14 rural area upon a finding that granting the application is in
15 the public interest. In making a public interest finding, the
16 commission may consider at least the following items:

17 (1) the impact of designation of an additional
18 eligible carrier on the size of the fund;

19 (2) the unique advantages and disadvantages of
20 the competitor's service offering; and

21 (3) any commitments made regarding the quality
22 of telephone service.

23 F. The commission shall adopt rules, including a
24 provision for variances, for the implementation and
25 administration of the fund in accordance with the provisions of

.220163.3

1 this section. The rules shall enumerate the appropriate uses
2 of fund support and any restrictions on the use of fund support
3 by eligible telecommunications carriers. The rules shall
4 require that an eligible telecommunications carrier receiving
5 support from the fund pursuant to Subsection K, L or M of this
6 section must expend no less than [~~sixty~~] eighty percent of the
7 support it receives to deploy and maintain broadband internet
8 access services in rural areas of the state. The rules also
9 shall provide for annual reporting by eligible
10 telecommunications carriers verifying that the reporting
11 carrier continues to meet the requirements for designation as
12 an eligible telecommunications carrier for purposes of the fund
13 and is in compliance with the commission's rules, including the
14 provisions regarding use of support from the fund.

15 G. The commission shall, upon implementation of the
16 fund, select a neutral third-party administrator to collect,
17 administer and disburse money from the fund under the
18 supervision and control of the commission pursuant to
19 established criteria and rules promulgated by the commission.
20 The administrator may be reasonably compensated for the
21 specified services from the surcharge proceeds to be received
22 by the fund pursuant to Subsection B of this section. For
23 purposes of this subsection, the commission shall not be a
24 neutral third-party administrator.

25 H. The fund established by the commission shall

.220163.3

1 ensure the availability of universal service as determined by
2 the commission at affordable rates in rural areas of the state;
3 provided, however, that nothing in this section shall be
4 construed as granting any authority to the commission to impose
5 the surcharge on or otherwise regulate broadband internet
6 access services.

7 I. The commission shall ensure that intrastate
8 switched access charges are equal to interstate switched access
9 charges established by the federal communications commission as
10 of January 1, 2006. Nothing in this section shall preclude the
11 commission from considering further adjustments to intrastate
12 switched access charges based on changes to interstate switched
13 access charges.

14 J. To ensure that providers of intrastate retail
15 communications service contribute to the fund and to further
16 ensure that the surcharge determined pursuant to Subsection B
17 of this section to be paid by the end-user customer will be
18 held to a minimum, the commission shall adopt rules, or take
19 other appropriate action, to require all such providers to
20 participate in a plan to ensure accurate reporting.

21 K. The commission shall authorize payments from the
22 fund to incumbent local exchange carriers, in combination with
23 revenue-neutral rate rebalancing up to the affordability
24 benchmark rates. Beginning in 2018, the commission shall make
25 access reduction support payments in the amount made from the

.220163.3

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

1 fund in base year 2014, adjusted each year thereafter by:

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

6 (2) changes in the affordability benchmark
7 rates that have occurred since 2014.

8 L. The commission shall determine the methodology
9 to be used to authorize payments to all other carriers that
10 apply for and receive eligible carrier status; provided,
11 however, that nothing in this section shall limit the
12 commission's authority to adopt rules pursuant to Subsection F
13 of this section regarding appropriate uses of fund support and
14 any restrictions on the use of the fund support by eligible
15 telecommunications carriers.

16 M. The commission may also authorize payments from
17 the fund to incumbent rural telecommunications carriers or to
18 telecommunications carriers providing comparable retail
19 alternative services that have been designated as eligible
20 telecommunications carriers serving in rural areas of the state
21 upon a finding, based on factors that may include a carrier's
22 regulated revenues, expenses or investment, by the commission
23 that such payments are needed to ensure the widespread
24 availability and affordability of universal service. The
25 commission shall decide cases filed pursuant to this subsection

.220163.3

1 with reasonable promptness, with or without a hearing, but no
2 later than six months following the filing of an application
3 seeking payments from the fund, unless the commission finds
4 that a longer time will be required, in which case the
5 commission may extend the period for an additional three
6 months.

7 N. The commission shall adopt rules that establish
8 and implement a broadband program to provide funding to
9 eligible telecommunications carriers for the construction and
10 maintenance of ~~[facilities capable of providing broadband~~
11 ~~internet access service. Such rules shall require that the~~
12 ~~commission consider applications for funding on a technology-~~
13 ~~neutral basis and shall require that the awards of support be~~
14 ~~consistent with federal universal service support programs and~~
15 ~~be based on the best use of the fund for rural areas of the~~
16 ~~state] broadband infrastructure. Each year, a minimum of [~~five~~~~
17 ~~million dollars (\$5,000,000)] eight million dollars~~
18 ~~(\$8,000,000) of the fund shall be dedicated to the broadband~~
19 program.

20 O. Rules adopted pursuant to Subsection N of this
21 section shall require that the commission:

22 (1) consider applications for funding on a
23 technology-neutral basis;

24 (2) submit applications for funding to the
25 connect New Mexico council for prioritization and alignment

1 with the broadband development plan to ensure digital equity
 2 and digital inclusion; and

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

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

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

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

21 (2) recommendations for [any] changes to the
 22 structure, size and purposes of the fund and whether the cap on
 23 the fund provided for in Subsection [θ] P of this section
 24 should be modified, maintained or eliminated; and

25 (3) the service areas that received funding

.220163.3

1 awards from the broadband program and the amounts of those
2 awards."

3 SECTION 14. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2021.

5 - 28 -

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

underscoring material = new
[bracketed material] = delete