

1 SENATE BILL 152

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO TELECOMMUNICATIONS; AMENDING THE RURAL
12 TELECOMMUNICATIONS ACT OF NEW MEXICO TO ESTABLISH A LOW-INCOME
13 TELECOMMUNICATIONS ASSISTANCE PROGRAM AND RESTRUCTURE THE
14 EXISTING BROADBAND PROGRAM; MAKING CONFORMING AND CLEAN-UP
15 AMENDMENTS; REQUIRING REPORTS; ESTABLISHING STATE RURAL
16 UNIVERSAL SERVICE FUND BUDGET CAPS; REPEALING THE LOW INCOME
17 TELEPHONE SERVICE ASSISTANCE ACT; AMENDING, REPEALING AND
18 ENACTING SECTIONS OF THE NMSA 1978.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21 **SECTION 1.** Section 63-9A-5 NMSA 1978 (being Laws 1985,
22 Chapter 242, Section 5, as amended) is amended to read:

23 "63-9A-5. REGULATION BY COMMISSION.--

24 A. Except as otherwise provided in the New Mexico
25 Telecommunications Act, each public telecommunications service

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1 is declared to be affected with the public interest and, as
2 such, subject to the provisions of that act, including the
3 regulation thereof as provided in that act.

4 B. Except in cases regarding the fixing of rates
5 pursuant to Section 63-7-1.1 NMSA 1978, the commission has
6 exclusive jurisdiction to regulate incumbent local exchange
7 carriers that serve fifty thousand or more access lines within
8 the state to the extent authorized by the New Mexico
9 Telecommunications Act; provided that:

10 (1) the commission's jurisdiction includes the
11 regulation of wholesale rates, including access charges and
12 interconnection agreements consistent with federal law and its
13 enforcement and determinations of participation in low-income
14 telephone service assistance programs pursuant to the [Low
15 Income Telephone Service Assistance Act] Rural
16 Telecommunications Act of New Mexico; and

17 (2) incumbent local exchange carriers
18 regulated pursuant to this section shall be regulated in the
19 same manner as incumbent rural telecommunications carriers are
20 regulated pursuant to the Rural Telecommunications Act of New
21 Mexico.

22 C. Any rules adopted by the commission for the
23 regulation of incumbent local exchange carriers pursuant to the
24 New Mexico Telecommunications Act shall preserve and not alter:

25 (1) the rights and obligations of any entity,

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1 including the commission, established pursuant to federal law,
2 including 47 U.S.C. Sections 251 and 252, or established
3 pursuant to any state law, rule, procedure, regulation or order
4 related to interconnection, intercarrier compensation,
5 intercarrier complaints, wholesale rights and obligations or
6 any wholesale rate or schedule that is filed with and
7 maintained by the commission;

8 (2) the rights and obligations of any
9 competitive telecommunications service provider holding a
10 certificate of public convenience and necessity, or the rights
11 and obligations of any competitive carrier to obtain such a
12 certificate;

13 (3) the authority of the commission to resolve
14 consumer complaints regarding basic local exchange service;
15 provided, however, that the commission's authority to resolve
16 such complaints shall be limited to resolving issues of
17 consumer protection and shall not include the authority to
18 determine or fix rates, provider of last resort obligations or
19 service quality standards except as expressly set forth in the
20 New Mexico Telecommunications Act;

21 (4) the authority of the commission to
22 establish reasonable quality of service standards; provided,
23 however, that the enforcement of such standards shall be
24 limited to the commission's fining authority set forth in
25 Section 63-7-23 NMSA 1978 and the authority to seek an

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1 injunction set forth in Section 63-9-19 NMSA 1978;

2 (5) the rights and obligations of any entity,

3 including the commission, regarding the fund;

4 (6) the rights and obligations of any entity,

5 including the commission, regarding access to emergency service

6 to the extent consistent with the Enhanced 911 Act; or

7 (7) the rights and obligations of any entity,

8 including the commission, regarding the administration of

9 slamming and cramming rules, telecommunications relay service

10 and numbering resources to the extent permitted by and

11 consistent with federal law.

12 D. The provisions of the New Mexico

13 Telecommunications Act do not apply to incumbent rural

14 telecommunications carriers."

15 SECTION 2. Section 63-9D-5 NMSA 1978 (being Laws 1989,

16 Chapter 25, Section 5, as amended) is amended to read:

17 "63-9D-5. IMPOSITION OF SURCHARGE.--

18 A. A 911 emergency surcharge is imposed in the

19 amount of one dollar (\$1.00) to be billed to each subscriber

20 access line by a communications service provider, on each

21 active number for a commercial mobile radio service subscriber

22 and on the number of VoIP lines for which the VoIP service

23 provider enables the capacity for simultaneous calls,

24 regardless of actual usage, to be connected to the public

25 switched telephone network during the period for which the

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1 fixed charge is imposed. The surcharge is imposed on all
2 subscribers whose place of primary use, as defined in the
3 federal Mobile Telecommunications Sourcing Act, is in New
4 Mexico; provided, however, that the surcharge shall not be
5 imposed upon subscribers receiving reduced rates ~~[pursuant to~~
6 ~~the Low Income Telephone Service Assistance Act]~~ as a result of
7 the low-income telecommunications assistance program pursuant
8 to the Rural Telecommunications Act of New Mexico; and provided
9 further that the surcharge shall not apply to prepaid wireless
10 communication service; and provided further that a 911
11 emergency surcharge shall not be assessed on the provision of
12 broadband internet access service.

13 B. A communications service provider shall bill and
14 collect the surcharge from subscribers whose places of primary
15 use, as defined in the federal Mobile Telecommunications
16 Sourcing Act, are in New Mexico. The surcharge required to be
17 collected by the communications service provider shall be added
18 to and stated clearly and separately in the billings to the
19 subscriber. The surcharge collected by the communications
20 service provider shall not be considered revenue of the
21 communications service provider.

22 C. A billed subscriber is liable for payment of the
23 911 emergency surcharge until it has been paid to the
24 communications service provider.

25 D. A communications service provider has no

1 obligation to take legal action to enforce the collection of
2 the surcharge; an action may be brought by or on behalf of the
3 department. A communications service provider, upon request
4 and not more than once a year, shall provide to the department
5 a list of the surcharge amounts uncollected, along with the
6 names and addresses of subscribers who carry a balance that can
7 be determined by the communications service provider to be
8 nonpayment of the surcharge. The communications service
9 provider shall not be held liable for uncollected surcharge
10 amounts."

11 SECTION 3. Section 63-9F-11 NMSA 1978 (being Laws 1993,
12 Chapter 54, Section 11, as amended) is amended to read:

13 "63-9F-11. IMPOSITION OF SURCHARGE.--

14 A. A telecommunications relay service surcharge of
15 one and sixty-six hundredths percent is imposed on the gross
16 amount paid:

17 (1) by customers, except customers whose
18 telephone service rates are reduced as ~~authorized by the Low~~
19 ~~Income Telephone Service Assistance Act] a result of the low-~~
20 ~~income telecommunications assistance program pursuant to the~~
21 ~~Rural Telecommunications Act of New Mexico~~, for intrastate
22 telecommunications services provided in this state;

23 (2) by customers for the intrastate portion of
24 interconnected voice over internet protocol service;

25 (3) by customers for intrastate mobile

telecommunications services that originate and terminate in the same state, regardless of where the mobile telecommunications services originate, terminate or pass through, provided by home service providers to customers whose place of primary use is in New Mexico; and

(4) by a prepaid consumer in a retail transaction.

B. The telecommunications relay service surcharge shall be included on the monthly bill of each customer of a local exchange company or other telecommunications company providing intrastate telecommunications services, interconnected voice over internet protocol services or intrastate mobile telecommunications services and paid at the time of payment of the monthly bill. Receipts from selling those services to any other telecommunications company or provider for resale are not subject to the surcharge. The customer is liable for the payment of the surcharge to the provider of intrastate mobile telecommunications services, the provider of interconnected voice over internet protocol services or the local exchange company or other telecommunications company providing intrastate telecommunications services to the customer.

C. For the purposes of the surcharge imposed on a retail transaction pursuant to Paragraph (4) of Subsection A of this section:

(1) the surcharge shall be collected by the seller from the prepaid consumer with respect to each retail transaction occurring in this state. The amount of the surcharge shall be either separately stated on an invoice, receipt or other similar document that is provided to the prepaid consumer by the seller or otherwise disclosed to the prepaid consumer;

(2) for the purposes of Paragraph (1) of this subsection, a retail transaction that is effected in person by a prepaid consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction is treated as occurring in this state if the retail transaction is treated as occurring in this state for purposes of the Gross Receipts and Compensating Tax Act;

(3) the surcharge is the liability of the prepaid consumer and not of the seller or any provider;

[except] provided that the seller shall be liable to remit all surcharges collected from the prepaid consumer as provided in this subsection, including all such surcharges that the seller is deemed to collect where the amount of the surcharge has not been separately stated on an invoice, receipt or other similar document provided to the prepaid consumer by the seller;

(4) the amount of the surcharge that is collected by a seller from a prepaid consumer, if such amount

is separately stated on an invoice, receipt or other similar document provided to the prepaid consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge or other charge that is imposed by this state, any political subdivision of this state or any intergovernmental agency;

(5) when prepaid wireless communications service is sold with one or more other products or services for a single, non-itemized price, the percentage specified in Subsection A of this section shall apply to the entire non-itemized price unless the seller elects to apply such percentage to:

(a) if the amount of the prepaid wireless communications service is disclosed to the prepaid consumer as a dollar amount, such dollar amount; or

(b) if the seller can identify the portion of the price that is attributable to the prepaid wireless communications service by reasonable and verifiable standards from its books and records that are kept in the regular course of business for other purposes, including non-tax purposes, such portion;

(6) if a minimal amount of prepaid wireless communications service is sold with a prepaid wireless device for a single, non-itemized price, the seller may elect not to apply the percentage specified in Subsection A of this section

1 to such transaction. For the purposes of this paragraph, an
2 amount of service denominated as ten minutes or less, or five
3 dollars (\$5.00) or less, is minimal;

4 (7) surcharges collected by sellers shall be
5 remitted to the taxation and revenue department at the times
6 and in the manner provided with respect to the Gross Receipts
7 and Compensating Tax Act. The department shall establish
8 registration and payment procedures that substantially coincide
9 with the registration and payment procedures that apply to the
10 Gross Receipts and Compensating Tax Act. A seller shall be
11 permitted to deduct and retain three percent of surcharges that
12 are collected by the seller from the prepaid consumer;

13 (8) the audit and appeal procedures applicable
14 to the Gross Receipts and Compensating Tax Act shall apply to
15 the surcharge;

16 (9) the taxation and revenue department shall
17 establish procedures by which a seller of prepaid wireless
18 communications services may document that a sale is not a
19 retail transaction, which procedures shall substantially
20 coincide with the procedures for documenting sale for resale
21 transactions for the Gross Receipts and Compensating Tax Act;
22 and

23 (10) notwithstanding Paragraph (1) of this
24 subsection, if a 911 surcharge is imposed on prepaid wireless
25 communications service pursuant to the Enhanced 911 Act, the

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1 taxation and revenue department shall promulgate rules to
2 permit sellers to combine the surcharge imposed pursuant to
3 this section and the surcharge imposed pursuant to the Enhanced
4 911 Act into a single surcharge on the invoice, receipt or
5 other similar document that is provided to the prepaid
6 consumer. The department shall ensure that appropriate
7 surcharge revenues are directed proportionately to the
8 respective 911 and telecommunications relay service funds.

9 D. A telecommunications company providing
10 intrastate telecommunications services, a home service provider
11 providing intrastate mobile telecommunications services and a
12 seller of interconnected voice over internet protocol services
13 shall, on sales subject to the telecommunications relay service
14 surcharge, assess and collect the surcharge and remit the
15 surcharge collected monthly to the taxation and revenue
16 department on or before the twenty-fifth day of the month
17 following collection. The department shall administer and
18 enforce the collection of the surcharge in accordance with the
19 Tax Administration Act.

20 E. The taxation and revenue department shall
21 transfer the following amounts of the net receipts of the
22 telecommunications relay service surcharge collected, less any
23 amount deducted in accordance with Subsection F of this
24 section, within the month following the month in which the
25 surcharge is collected:

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(1) twenty percent to the telecommunications access fund; and

(2) eighty percent to the 988 lifeline fund.

F. The taxation and revenue department may deduct an amount not to exceed three percent of the telecommunications relay service surcharge collected as a charge for the administrative costs of collection and shall remit that amount to the state treasurer for deposit in the general fund each month.

G. The commission and the health care authority shall report to the revenue stabilization and tax policy committee annually by September 30 the following information with respect to the prior fiscal year:

(1) the amount and source of revenue received by the telecommunications access fund and the 988 lifeline fund;

(2) the amount and category of expenditures from the funds; and

(3) the balance of the funds on that June 30."

SECTION 4. Section 63-9H-3 NMSA 1978 (being Laws 1999, Chapter 295, Section 3, as amended by Laws 2021, Chapter 118, Section 1 and by Laws 2021, Chapter 120, Section 8) is amended to read:

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

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1 A. "affordable rates" means rates for basic service
2 that promote universal service ~~[within a local exchange service~~
3 ~~area]~~, giving consideration to the economic conditions of
4 households in the service area and costs to provide service in
5 the area in which service is provided;

6 B. "basic service" means service that is provided
7 ~~[to a rural end-user customer]~~ that is consistent with the
8 federal act:

9 (1) to a rural end-user customer; or
10 (2) to a rural or non-rural end-user customer
11 pursuant to the low-income telecommunications assistance
12 program;

13 C. "broadband infrastructure" means ~~[any cable or~~
14 ~~device used for high-capacity transmission over a wide range of~~
15 ~~frequencies that enables a large number of electronic messages~~
16 ~~to be transmitted or received simultaneously]~~ facilities and
17 equipment used to provide internet service, excluding
18 telecommunications equipment owned, controlled or operated by a
19 public or private end user;

20 D. "cable service" means the transmission to
21 subscribers of video programming or other programming service
22 and subscriber interaction, if any, that is required for the
23 selection or use of the video programming or other programming
24 service;

25 E. "commission" means the public regulation

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1 commission;

2 F. "comparable carrier" means an eligible
3 telecommunications carrier established prior to enactment of
4 the Rural Telecommunications Act of New Mexico that has a
5 similar number of access lines as an eligible
6 telecommunications carrier established after enactment of that
7 act;

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

14 H. "digital inclusion" means access to and the
15 ability to use information technologies;

16 I. "eligible telecommunications carrier" means an
17 eligible telecommunications carrier as defined in the federal
18 act;

19 J. "federal act" means the federal
20 Telecommunications Act of 1996;

21 K. "fund" means the state rural universal service
22 fund;

23 L. "incumbent local exchange carrier" means a
24 person that:

25 (1) was designated as an eligible

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

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

M. "incumbent rural telecommunications carrier" means an incumbent local exchange carrier that serves fewer than fifty thousand access lines within the state and has been designated as an eligible telecommunications carrier by the state corporation commission or the public regulation commission;

N. "local exchange area" means a geographic area encompassing one or more local communities, as described in maps, tariffs or rate schedules filed with the commission, where local exchange rates apply;

0. "local exchange service" means the transmission of two-way interactive switched voice communications furnished by a telecommunications carrier within a local exchange area;

P. "long distance service" means telecommunications service between local exchange areas that originate and terminate within the state:

Q. "office" means the office of broadband access and expansion:

[Q.] R. "private telecommunications service" means

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

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

24 T. "rural area" means an unincorporated area or a
25 city, a town or an incorporated area with a population of

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1 twenty thousand or less as reflected in the most recent federal
2 decennial census or applicable tribal census;

3 [S.] U. "statewide broadband plan" means the ~~State~~
4 ~~of New Mexico Broadband Strategic Plan and Rural Broadband~~
5 ~~Assessment published by the department of information~~
6 ~~technology in June 2020; provided that, upon Senate Bill 93 of~~
7 ~~the first session of the fifty-fifth legislature becoming law,~~
8 ~~"statewide broadband plan" means the statewide broadband plan~~
9 ~~developed pursuant to that law and] plan developed by the~~
10 ~~office pursuant to the Broadband Access and Expansion Act;~~

11 [T.] V. "telecommunications carrier" means a person
12 that provides public telecommunications service;

13 W. "underserved" means an area or property that
14 does not have access to internet service offering speeds
15 greater than one hundred megabits per second downstream and
16 twenty megabits per second upstream; and

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

22 SECTION 5. Section 63-9H-4 NMSA 1978 (being Laws 1999,
23 Chapter 295, Section 4, as amended) is amended to read:

24 "63-9H-4. REGULATION BY COMMISSION.--

25 A. Except as otherwise provided in the Rural
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1 Telecommunications Act of New Mexico or the federal act, each
2 public telecommunications service is declared to be affected
3 with the public interest and, as such, subject to the
4 provisions of those acts, including the regulation thereof as
5 provided in those acts.

6 B. The commission has exclusive jurisdiction to
7 regulate incumbent rural telecommunications carriers only in
8 the manner and to the extent authorized by the Rural
9 Telecommunications Act of New Mexico, and Section 63-7-1.1 NMSA
10 1978 does not apply; provided, however, that the commission's
11 jurisdiction includes the regulation of wholesale rates,
12 including access charges and interconnection agreements
13 consistent with federal law and its enforcement and a
14 determination of participation in low-income telephone service
15 assistance programs pursuant to the ~~Low Income Telephone~~
16 ~~Service Assistance Act~~ Rural Telecommunications Act of New
17 Mexico.

18 C. The commission shall adopt rules consistent with
19 the requirement for relaxed regulation for incumbent rural
20 telecommunications carriers set forth in the Rural
21 Telecommunications Act of New Mexico that provide for:

22 (1) reduced filing requirements for applicants
23 in rate increase proceedings under the Rural Telecommunications
24 Act of New Mexico and proceedings under that act seeking
25 payments from the fund; and

(2) expedited consideration in all proceedings initiated pursuant to the Rural Telecommunications Act of New Mexico in order to reduce the cost and burden for incumbent rural telecommunications carriers and other applicants."

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

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

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

B. The fund shall be financed by a surcharge on intrastate retail public telecommunications services to be determined by the commission, excluding services provided pursuant to a low-income [telephone] telecommunications assistance plan billed to end-user customers by a telecommunications carrier, and excluding all amounts from

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

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tribe or pueblo; or to Native American customers who reside on tribal or pueblo land.

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

D. The commission shall:

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

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

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

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

(5) establish affordability benchmark rates

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1 for local residential and business services that shall be
2 utilized in determining the level of support from the fund.

3 The process for determining subsequent adjustments to the
4 benchmark shall be established through a rulemaking.

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

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

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

20 (3) any commitments made regarding the quality
21 of [telephone] service.

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

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1 of fund support and any restrictions on the use of fund support
2 by eligible telecommunications carriers. The rules shall
3 require that through December 31, 2028, an eligible
4 telecommunications carrier receiving support from the fund
5 pursuant to Subsection K, L, M or N of this section ~~[must]~~
6 shall expend no less than sixty percent of the support it
7 receives to deploy and maintain broadband internet access
8 services in rural areas of the state. In subsequent years, the
9 rules shall require that an eligible telecommunications carrier
10 receiving support from the fund pursuant to Subsection K, L, M
11 or N of this section shall expend no less than one hundred
12 percent of the support it receives to deploy and maintain
13 broadband internet access services. The rules also shall
14 provide for annual reporting by eligible telecommunications
15 carriers verifying that the reporting carrier continues to meet
16 the requirements for designation as an eligible
17 telecommunications carrier for purposes of the fund and is in
18 compliance with the commission's rules, including the
19 provisions regarding use of support from the fund.

20 G. The commission shall, upon implementation of the
21 fund, select a neutral third-party administrator to collect,
22 administer and disburse money from the fund under the
23 supervision and control of the commission pursuant to
24 established criteria and rules promulgated by the commission.
25 The administrator may be reasonably compensated for the

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1 specified services from the surcharge proceeds to be received
2 by the fund pursuant to Subsection B of this section. For
3 purposes of this subsection, the commission shall not be a
4 neutral third-party administrator.

5 H. The fund established by the commission shall
6 ensure the availability of universal service as determined
7 by the commission at affordable rates in rural areas of the
8 state; provided, however, that nothing in this section shall be
9 construed as granting any authority to the commission to
10 [~~impose the surcharge on or otherwise~~] regulate broadband
11 internet access services.

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

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

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

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

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

L. Notwithstanding the provisions of Subsection K of this section, the annual amount of access reduction support payments for an eligible incumbent local exchange carrier in [2024, 2025 and 2026] each year shall be equal to the annual access reduction support payments for that eligible incumbent local exchange carrier for the year 2023. [Access reduction support payments shall be terminated after December 31, 2026.]

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

(1) an eligible incumbent telecommunications carrier that is not eligible for funding pursuant to rate rebalancing in Subsection K of this section and that has been

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1 previously authorized [pursuant to Subsection N of this
2 section] for need-based support may apply for ongoing fund
3 support at the annual amount previously authorized in 2023
4 pursuant to Subsection N of this section;

5 (2) the commission shall award an applicant
6 ongoing fund support at no less than the average access line
7 amount of funding support for comparable carriers; [provided
8 that an eligible telecommunications carrier receiving fund
9 support pursuant to this subsection shall not offer basic local
10 exchange residential and business services at rate levels lower
11 than the rates for such services charged by any of the
12 comparable carriers used for the determination of the level of
13 support;]

14 (3) the commission shall act upon a request
15 for ongoing fund support within one hundred twenty days of the
16 filing of the request; and

17 (4) nothing in this [section] subsection shall
18 limit the commission's authority to adopt rules [pursuant to
19 Subsection F of this section] regarding appropriate uses of
20 fund support and any restrictions on the use of the fund
21 support by eligible telecommunications carriers.

22 N. The commission may also authorize payments from
23 the fund to incumbent rural telecommunications carriers or to
24 telecommunications carriers providing comparable retail
25 alternative services that have been designated as eligible

1 telecommunications carriers serving in rural areas of the state
2 upon a finding, based on factors that may include a carrier's
3 regulated revenues, expenses or investment, by the commission
4 that such payments are needed to ensure the widespread
5 availability and affordability of universal service. The
6 commission shall decide cases filed pursuant to this subsection
7 with reasonable promptness, with or without a hearing, but no
8 later than six months following the filing of an application
9 seeking payments from the fund, unless the commission finds
10 that a longer time will be required, in which case the
11 commission may extend the period for an additional three
12 months.

13 [0. The commission shall adopt rules that establish
14 and implement a broadband program to provide funding to
15 eligible telecommunications carriers for the construction and
16 maintenance of broadband infrastructure. Each year, an amount
17 equal to forty million dollars (\$40,000,000) less the amounts
18 expended pursuant to Subsections K, L, M and N of this section
19 shall be dedicated to the broadband program.]

20 P. Rules adopted pursuant to Subsection 0 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 statewide broadband plan to ensure digital equity and
2 digital inclusion; and

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

5 Q. The total obligations of the fund determined by
6 the commission pursuant to this section, plus administrative
7 expenses and a prudent fund balance, shall not exceed a cap of
8 forty million dollars (\$40,000,000) per year.

9 R. By October 1 of each year, the commission shall
10 make a report to the legislature regarding the status of the
11 fund, including:

12 (1) relevant data relating to implementation
13 of the broadband program and the progress toward digital equity
14 and digital inclusion in rural areas of the state;

15 (2) recommendations for changes to the
16 structure, size and purposes of the fund and whether the cap on
17 the fund provided for in Subsection Q of this section should be
18 modified, maintained or eliminated; and

19 (3) the service areas that received funding
20 awards from the broadband program and the amounts of those
21 awards.

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

25 (1) whether to repurpose the access reduction

1 support funds into the commission's broadband support program;

2 (2) a methodology for determining broadband

3 support levels that is consistent with the requirements of

4 Subsection C of this section and accounts, at a minimum, for

5 broadband costs, potential revenues from deployed

6 infrastructure and existing federal support mechanisms;

7 (3) the appropriate size of the fund;

8 (4) criteria for awarding funding;

9 (5) the impact of proposed changes on per-

10 connection assessments; and

11 (6) whether all sellers of prepaid

12 telecommunications services should be required to collect state

13 rural universal service fund assessments at the point of sale,

14 similar to the methodology for collecting 911 emergency

15 surcharges pursuant to Section 63-9D-5 NMSA 1978.]"

16 SECTION 7. A new section of the Rural Telecommunications

17 Act of New Mexico is enacted to read:

18 "[NEW MATERIAL] LOW-INCOME TELECOMMUNICATIONS ASSISTANCE

19 AND BROADBAND PROGRAMS--REPORTS.--

20 A. By January 1, 2027, the commission shall

21 promulgate rules to implement a low-income telecommunications

22 assistance program to ensure affordable access to

23 telecommunications services to eligible low-income households

24 in New Mexico. Rules adopted pursuant to this subsection

25 shall:

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- (1) complement the lifeline program administered by the federal communications commission or a successor federal broadband affordability program;
- (2) mirror quality of service standards for fixed broadband and mobile broadband provided to a broadband serviceable location established by the federal communications commission;
- (3) establish a mechanism by which a participating eligible telecommunications carrier may be reimbursed from the fund for reduced rates provided to eligible households at levels up to the retail charges for qualifying services;
- (4) require participating eligible telecommunications carriers to use the national verifier or national lifeline accountability database administered by the federal communications commission or a successor federal broadband affordability database to verify eligible households under Paragraph (5) of this subsection; and
- (5) provide for an eligible telecommunications carrier to provide assistance in the form of reduced rates to households that:
 - (a) include a student identified by the public education department who is determined to be at risk pursuant to the final judgment in the *Yazzie/Martinez v. State of New Mexico* consolidated lawsuit;

(b) meet the eligibility criteria of one or more need-based assistance programs administered by the health care authority; or

(c) are eligible for support under the federal lifeline program or a successor program.

B. The commission shall allocate money not allocated to the other state rural universal service fund obligations to the low-income telecommunications assistance program.

C. Subject to state and federal laws and regulations governing the sharing of confidential information, the public education department and health care authority shall cooperate with the commission and eligible telecommunications carriers in identifying those persons eligible for assistance from the low-income telecommunications assistance program.

D. The commission shall adopt rules to establish and implement a broadband program to provide funding to assist eligible telecommunications carriers in the construction or maintenance of rural broadband infrastructure to ensure that all New Mexico residents have access to broadband internet access service that meets the quality of service standards established pursuant to the Broadband Access and Expansion Act or by the federal communications commission if state standards are not established pursuant to the Broadband Access and Expansion Act; provided that rules adopted pursuant to this

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subsection shall:

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

(2) require that applications for funding be submitted to the office for prioritization and alignment with the statewide broadband plan;

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

(4) require tribal consent for all applications that propose to provide service on the sovereign land of an Indian nation, tribe or pueblo in New Mexico.

E. By October 1 of each year, the commission shall make a report to the interim committee that studies economic and rural development, the legislative finance committee, the legislative education study committee and the interim committee that studies technology and telecommunications regarding the status of the broadband program and the low-income telecommunications assistance program. The report shall be shared with the office, the public education department and the health care authority. The report shall include, at a minimum:

(1) the number of households receiving assistance from the low-income telecommunications assistance program pursuant to this section;

(2) the number of households in New Mexico eligible for low-income telecommunications assistance pursuant

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1 to this section based on eligible households identified by the
2 public education department, the health care authority and the
3 federal communications commission;

4 (3) the estimated cost of providing low-income
5 telecommunications assistance to all eligible households in New
6 Mexico;

7 (4) the service areas that received funding
8 awards from the broadband program, the amounts of those awards
9 and the nature of the awards;

10 (5) the proposed construction time lines for
11 all new broadband construction;

12 (6) a comparison of the annual broadband
13 operation and maintenance funding provided by the commission
14 each year, broken down by individual carrier;

15 (7) recommendations for changes to the
16 structure, size and purposes of the fund, including:

17 (a) whether the cap on the low-income
18 telecommunications assistance program provided for in
19 Subsection C of Section 8 of this 2026 act should be modified,
20 maintained or eliminated; and

21 (b) whether the cap on the broadband
22 program provided for in Subsection B of Section 8 of this 2026
23 act should be modified, maintained or eliminated;

24 (8) details regarding collaboration with the
25 office in the implementation and operation of the broadband

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1 program; and

2 (9) details regarding collaboration with the
3 public education department and the health care authority in
4 the implementation and operation of the low-income
5 telecommunications assistance program."

6 **SECTION 8.** A new section of the Rural Telecommunications
7 Act of New Mexico is enacted to read:

8 "[NEW MATERIAL] STATE RURAL UNIVERSAL SERVICE FUND BUDGET
9 CAPS.--The total obligations of the fund determined by the
10 commission, plus administrative expenses and a prudent fund
11 balance, shall not exceed a cap of:

12 A. eighteen million dollars (\$18,000,000) pursuant
13 to the access reduction support, need-based support and
14 comparable carrier support in Subsections K through N of
15 Section 63-9H-6 NMSA 1978;

16 B. twelve million dollars (\$12,000,000) pursuant to
17 the broadband program in Subsection D of Section 7 of this 2026
18 act; and

19 C. pursuant to the low-income telecommunications
20 assistance program:

21 (1) ten million dollars (\$10,000,000) in the
22 first year of the program; and

23 (2) forty-five million dollars (\$45,000,000)
24 per year in subsequent years of the program."

25 **SECTION 9.** REPEAL.--Sections 63-9C-1 through 63-9C-6 NMSA

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1 1978 (being Laws 1987, Chapter 197, Sections 1 through 6, as
2 amended) are repealed.

3 **SECTION 10. EFFECTIVE DATE.**--The effective date of the
4 provisions of this act is July 1, 2026.

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