

SENATE BILL 93

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

INTRODUCED BY

Michael Padilla and Elizabeth "Liz" Stefanics

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO BROADBAND; ENACTING THE BROADBAND ACCESS AND EXPANSION ACT; ESTABLISHING THE OFFICE OF BROADBAND ACCESS AND EXPANSION; Hf11→SFC→~~CREATING THE BROADBAND ACCESS AND EXPANSION COUNCIL; CREATING THE BROADBAND ACCESS AND EXPANSION FUND;~~←SFC←Hf11 PROVIDING POWERS AND DUTIES Hf11→SFC→; MAKING AN APPROPRIATION←SFC←Hf11 Hf11→Hf11→; MAKING AN APPROPRIATION←Hf11←Hf11 .

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Broadband Access and Expansion Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Broadband Access and Expansion Act:

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

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

Hf11→SFC→G. ~~"council" means the broadband access and expansion council;~~←SFC←Hf11

SFC→G.←SFC Hf11→SFC→D.←SFC←Hf11 Hf11→C.←Hf11
"director" means the director of the broadband office;

SFC→D.←SFC Hf11→SFC→E.←SFC←Hf11 Hf11→D.←Hf11
"local government" means the government of a municipality, county or political subdivision of the state;

SFC→E.←SFC Hf11→SFC→F.←SFC←Hf11 Hf11→E.←Hf11
"public educational institution" means a public school, a school district, a public post-secondary educational institution or a state agency that provides administrative, funding or technical support to public schools, school districts and public post-secondary educational institutions;

SFC→F.←SFC Hf11→SFC→G.←SFC←Hf11 Hf11→F.←Hf11
"quality of service" means the standards Hf11→for broadband

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~~service established by the broadband office pursuant to the
Broadband Access and Expansion Act, including upload and
download speeds, number of days per month without service
interruption and any other standard that the broadband office
establishes by rule~~ ←Hf11 Hf11→ established by the federal
communications commission ←Hf11 ; and

SFC→G.←SFC Hf11→SFC→H.←SFC←Hf11 Hf11→G.←Hf11

"statewide broadband plan" means a plan, including recommended
statutory changes and implementation procedures, for the
development and expansion of broadband infrastructure and
services throughout the state to meet the needs:

- (1) for the delivery of internet-based
educational, medical and emergency services;
- (2) for local and tribal communities to foster
and recruit internet-reliant business and industry and to
promote economic development and job creation; and
- (3) to support internet-reliant state, local
and tribal government agency functions and facilitate the
delivery of governmental services in a manner that is
competitive with similar government agencies in neighboring
states.

SECTION 3. [NEW MATERIAL] OFFICE OF BROADBAND ACCESS AND
EXPANSION CREATED--DIRECTOR--STANDARDS--DATA COLLECTION--
STATEWIDE BROADBAND PLAN--ASSISTANCE FOR POLITICAL
SUBDIVISIONS.--

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A. The "office of broadband access and expansion" is created and is administratively attached to the department of information technology.

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

C. The broadband office shall:

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

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

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

(a) the number of homes and businesses that do not have access to broadband service; ~~Hf11~~ and ~~Hf11~~

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

~~Hf11~~ ~~Hf11~~ ~~Hf11~~; and ~~Hf11~~

~~Hf11~~ (c) the locations of broadband

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infrastructure currently owned or projected for construction by the state or local governments on a county-by-county basis.←Hf11

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

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

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

Hf11→G. The broadband office shall implement the

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statewide broadband plan.←Hf11

Hf11→G.←Hf11 Hf11→H.←Hf11 The broadband office shall provide technical and planning assistance to local governments, public educational institutions and state agencies in the design, development or implementation of their own plans for the development of broadband service. When providing planning and technical assistance, the broadband office shall encourage the use of regional planning and may provide planning and technical assistance to tribal government agencies and schools when those entities are participants in a joint powers agreement with a county, municipality, political subdivision, public educational institution or state agency or memorandum of understanding for the design, development or implementation of a regional broadband plan.

Hf11→SFC→H.←~~The broadband office may form an advisory committee comprising representatives of state, local and tribal government agencies and the general public to facilitate the collection of information and the development of proposals for the statewide broadband plan; provided that if an advisory committee is formed, at least three different tribal agencies shall be represented on the committee.~~←SFC←Hf11

Hf11→ Hf11→H.←Hf11 Hf11→I.←Hf11 The broadband office may form an advisory committee comprising representatives of state, local and tribal government agencies and the general public to facilitate the collection of

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information and the development of proposals for the statewide broadband plan; provided that if an advisory committee is formed, at least three different tribal agencies shall be represented on the committee.←Hf11

SECTION 4. [NEW MATERIAL] COORDINATION OF STATE AND LOCAL GOVERNMENT BROADBAND EFFORTS.--

A. The broadband office shall identify federal and nongovernmental broadband funding assistance opportunities for local governments, public educational institutions, state agencies and tribal governments and shall publish a list of those opportunities in a manner that can be searched on a county-by-county basis.

Hf11→~~B. The broadband office shall be the applicant for such funding assistance for all state agencies.~~

~~C. State agencies and public educational institutions shall coordinate with the broadband office for the purchase of broadband infrastructure and services with the goal of implementing bulk pricing agreements.~~

~~D. The broadband office shall negotiate and may enter into memoranda of understanding with federal, local government, state and tribal government agencies to create a uniform system of permits, licenses and regulation of rights of way for broadband infrastructure across all governmental jurisdictions within each region of the state, with the goal of creating uniform permitting and licensing requirements~~

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~~statewide. The broadband office shall develop proposals for government agencies at the local, county and state levels to build and pay for broadband networks.~~ ←Hf11

Hf11→B. The broadband office may be the applicant for such funding assistance for all state agencies except the department of transportation.

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

D. The broadband office shall coordinate with and may enter into memoranda of understanding with federal, local government, state and tribal government agencies to create an integrated system of permits, licenses and rules for broadband infrastructure across all governmental jurisdictions within each region of the state, including the creation of a centralized repository, and an expedited review process for rights of way use applications, with the goal of creating uniform coordinated permitting and licensing requirements statewide. The broadband office shall develop proposals for government agencies at the local, county and state levels to build and pay for broadband networks, upon request for such assistance. ←Hf11

Hf11→SFC→SECTION 5. ~~[NEW MATERIAL]~~ COUNCIL

~~CREATED--POWERS.--~~

~~A. The "broadband access and expansion council" is created and administratively attached to the department of information technology.~~

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

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

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

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

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

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

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

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

~~(8) four members of the public who have experience with broadband access and connectivity challenges~~

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~~for either private business or public institutions, appointed as follows:~~

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

~~(b) one member appointed by the minority floor leader of the house of representatives;~~

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

~~(d) one member appointed by the minority floor leader of the senate; and~~

~~(9) two public members who are experienced with broadband access and connectivity issues for an Indian nation, tribe or pueblo appointed by the tribal infrastructure board.~~

~~G. The chair of the council shall be elected by a quorum of the council members. The council shall meet monthly or at the call of the chair. A majority of members constitutes a quorum for the transaction of business. The affirmative vote of at least a majority of a quorum present shall be necessary for an action to be taken by the council.~~

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

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

~~(2) one member initially appointed pursuant to Paragraph (9) of Subsection B of this section shall be initially appointed for a term of two years.~~

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

~~F. Public members of the council are appointed public officials of the state while carrying out their duties and activities under the Broadband Access and Expansion Act.~~

~~G. A council member shall recuse the council member's self from decisions in which the council member has a conflict of interest.~~

~~H. Council members shall be governed by the Governmental Conduct Act.~~

~~I. The broadband office shall staff the council and provide technical expertise for the grant selection process.~~

~~SECTION 6. [NEW MATERIAL] COUNCIL--DUTIES.--The council shall:~~

~~A. adopt rules governing terms and conditions for~~

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~~grants from the broadband access and expansion fund; and~~

~~B. evaluate grant proposals and make grant awards from the broadband access and expansion fund based on criteria established in Section 7 of the Broadband Access and Expansion Act.~~

~~SECTION 7. [NEW MATERIAL] BROADBAND ACCESS AND EXPANSION FUND CREATED.--~~

~~A. The "broadband access and expansion fund" is created in the state treasury. The fund consists of appropriations, gifts, grants and donations. Money in the fund is subject to appropriation by the legislature to the council for the purpose of administering the broadband grant program. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the chair of the council. Any unexpended or unencumbered balance in the fund remaining at the end of a fiscal year shall not revert to the general fund.~~

~~B. The council shall establish a broadband grant program to develop, expand and support access to broadband services; provided that:~~

~~(1) the grants shall be awarded on a competitive basis; and~~

~~(2) the council shall each year seek to award grants for proposals submitted by the following entities~~

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~~throughout the state:~~

~~(a) local governments;~~

~~(b) state agencies;~~

~~(c) public educational institutions;~~

~~(d) tribal governments; and~~

~~(e) entities created by a joint powers~~

~~agreement pursuant to the Joint Powers Agreements Act.~~

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

~~(1) the extent to which the project connects residents in New Mexico with limited or no access to broadband services, with priority given to projects that will connect residents who currently do not have broadband access;~~

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

~~(3) the extent to which the project leverages regional collaboration;~~

~~(4) the extent to which the project complements or coordinates with the statewide broadband plan;~~

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

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~~(6) the extent to which the project leverages in-kind or financial support from local agencies or entities or federal funding for broadband projects.~~←SFC←Hf11

SFC→SECTION 5. APPROPRIATION.--~~Nine hundred fifty thousand dollars (\$950,000) is appropriated from the general fund to the department of information technology for expenditure in fiscal year 2022 to establish and operate the office of broadband access and expansion. The appropriation may be used to hire up to five full-time-equivalent staff. Any unexpended or unencumbered balance remaining at the end of fiscal year 2022 shall revert to the general fund.~~←SFC