

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; ESTABLISHING DUTIES; ESTABLISHING  
THE BROADBAND DEVELOPMENT DIVISION AS THE COORDINATOR OF STATE  
BROADBAND PROGRAMS; PROVIDING FOR PLANNING; ESTABLISHING THE  
CONNECT NEW MEXICO FUND; PROVIDING FOR GRANTS; REQUIRING  
REPORTS; RAISING THE LEVELS OF DISBURSEMENT FOR BROADBAND FROM  
THE STATE RURAL UNIVERSAL SERVICE FUND; REQUIRING THAT THE  
PLANNING AND ACTIONS OF STATE AGENCIES AND PUBLIC EDUCATIONAL  
INSTITUTIONS IN RELATION TO BROADBAND INFRASTRUCTURE BE IN  
ACCORD WITH THE BROADBAND DEVELOPMENT PLAN ESTABLISHED PURSUANT  
TO THE CONNECT NEW MEXICO ACT; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1

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1 through 9 of this act may be cited as the "Connect New Mexico  
2 Act".

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

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

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

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

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

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

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

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1           D. "department" means the department of information  
2 technology;

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

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

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

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

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

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

25           K. "public educational institution" means a public

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

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

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

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

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

20 SECTION 3. [NEW MATERIAL] BROADBAND DEVELOPMENT

21 DIVISION--REPORTS--AGENCY COORDINATION--CONSULTATION--TECHNICAL  
22 AND PLANNING ASSISTANCE.--

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

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

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

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

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

23          F. The division shall provide technical and  
24 planning assistance to local governments, public educational  
25 institutions, state agencies and tribal governments in the

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1 design, development or implementation of their own plans for  
2 the development of broadband service. The division shall  
3 prioritize such assistance based on a planning effort's  
4 potential to serve underserved or unserved populations, promote  
5 digital equity or digital inclusion or promote regional  
6 planning.

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

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

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

22 SECTION 5. [NEW MATERIAL] DEVELOPMENT COORDINATION--  
23 FEDERAL AND STATE AGENCY AND LOCAL AND TRIBAL GOVERNMENT  
24 OUTREACH--BROADBAND KNOWLEDGE AND DIGITAL EQUITY ANALYSIS AND  
25 PLAN.--

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

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

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

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

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

23           **SECTION 6. [NEW MATERIAL] BROADBAND DEVELOPMENT PLAN--**  
24 **ADVISORY COMMITTEES--REPORTS.--**

25           A. On or before September 1, 2025 and every three

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1 years after that, the division shall update and revise the  
2 statewide broadband development plan developed pursuant to the  
3 Connect New Mexico Act and report it to the governor and the  
4 legislature.

5 B. The division shall form a statewide advisory  
6 committee of educational, governmental, public and private  
7 sector interests to advise the division on the broadband  
8 development plan and to facilitate the collection of  
9 information for the plan; provided that agencies from at least  
10 three different tribal governments shall be invited to have  
11 representatives on the committee. State agencies and public  
12 educational institutions shall provide relevant broadband-  
13 related information that they have collected or developed as  
14 requested by the division.

15 C. The division may form regional or issue-specific  
16 advisory committees of appropriate educational, governmental,  
17 public and private sector interests to develop regional  
18 broadband planning or a plan to resolve particular broadband  
19 challenges or to examine opportunities for applications for  
20 federal or private sector funding assistance; provided that  
21 when a regional advisory committee is formed for a region with  
22 two or more tribal government jurisdictions or when an issue-  
23 specific advisory committee is formed to address a challenge  
24 generally faced by communities or government agencies  
25 regardless of jurisdiction, agencies from at least two

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1 different tribal governments shall be invited to have  
2 representatives on the committee.

3 SECTION 7. [NEW MATERIAL] CONNECT NEW MEXICO FUND  
4 CREATED.--

5 A. The "connect New Mexico fund" is created in the  
6 state treasury. The fund consists of appropriations, gifts,  
7 grants and donations. Money in the fund is subject to  
8 appropriation by the legislature to the division for the  
9 purpose of administering the broadband grant program.

10 Disbursements from the fund shall be made upon warrants drawn  
11 by the secretary of finance and administration pursuant to  
12 vouchers signed by the director or the director's designee.  
13 Any unexpended and unencumbered balance in the fund remaining  
14 at the end of any fiscal year shall not revert to the general  
15 fund.

16 B. The division shall establish a broadband grant  
17 program to develop, expand and support digital inclusion;  
18 provided that:

19 (1) the grants shall be on a competitive  
20 basis; and

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

23 (a) local governments; provided that a  
24 local government receiving a grant award from the connect New  
25 Mexico fund shall have entered into an agreement with the

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1 division pursuant to Section 8 of the Connect New Mexico Act;

2 (b) state agencies;

3 (c) public educational institutions; and

4 (d) tribal governments.

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

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

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

15 (3) the degree to which the project fosters  
16 digital inclusion;

17 (4) the extent to which the project  
18 complements or coordinates with the statewide broadband  
19 development plan;

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

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

25 SECTION 8. [NEW MATERIAL] DISTRIBUTION OF BROADBAND

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1 PLAN--AGENCY ACTIONS TO BE CONSISTENT WITH PLAN.--

2 A. On or before September 15, 2021 and on or before  
3 September 15 each year thereafter, the division shall transmit  
4 a copy of the most recent revision or updated broadband  
5 development plan to all state agencies, public educational  
6 institutions, local governments and tribal governments.

7 B. A state agency or public educational institution  
8 shall ensure that its planning and actions related to broadband  
9 infrastructure and expansion improve digital equity and digital  
10 inclusion and are made in accordance with the most recent  
11 update or revision of the broadband development plan.

12 C. In order to receive funding from the connect New  
13 Mexico fund, a local government shall enter into an agreement  
14 with the division to ensure that its planning and actions  
15 related to broadband infrastructure and expansion improve  
16 digital equity and digital inclusion and are made in accordance  
17 with the most recent update or revision of the broadband  
18 development plan.

19 SECTION 9. [NEW MATERIAL] DATA COLLECTION--ANNUAL  
20 REPORT.--

21 A. By October 1 of each year, the division shall  
22 provide to the appropriate legislative interim committees a  
23 report on the access to and quality of service of broadband  
24 across the state. Information shall be provided on a county-  
25 by-county basis.

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1                   B. The report shall contain the following  
2 information:

3                   (1) progress achieved toward digital equity  
4 and digital inclusion;

5                   (2) progress achieved on implementation of the  
6 broadband development plan;

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

9                   (4) recommended statutory, regulatory or  
10 policy changes and budget recommendations for the development  
11 and expansion of broadband infrastructure and digital equity  
12 and inclusion;

13                   (5) the status of the creation of maps  
14 pursuant to Subsection B of Section 4 of the Connect New Mexico  
15 Act; and

16                   (6) information on the broadband grant  
17 program, including:

18                   (a) a list of grant recipients;  
19                   (b) the amount and date of each grant;  
20                   (c) a description of each project  
21 funded;

22                   (d) a description of how each project  
23 contributes to the statewide broadband development plan and  
24 demonstrates increased access and quality of service for the  
25 unserved and underserved populations of New Mexico, creates

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1 economic benefits or pilots or demonstrates new technologies or  
 2 new implementations of existing technologies; and

3 (e) any identified challenges to  
 4 successful grant applications.

5 SECTION 10. Section 9-27-4 NMSA 1978 (being Laws 2007,  
 6 Chapter 290, Section 4) is amended to read:

7 "9-27-4. DEPARTMENT CREATED--DIVISIONS.--

8 A. The "department of information technology" is  
 9 created. The department is a cabinet department and includes  
 10 the following divisions:

11 (1) broadband development division;

12 [~~(1)~~] (2) program support division;

13 [~~(2)~~] (3) compliance and project management  
 14 division; and

15 [~~(3)~~] (4) enterprise services division.

16 B. The secretary:

17 (1) may organize the department and the  
 18 divisions specified in Subsection A of this section and may  
 19 transfer or merge functions between divisions in the interest  
 20 of efficiency and economy; and

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

23 C. The broadband development division shall  
 24 implement and periodically update the broadband development  
 25 plan pursuant to the Connect New Mexico Act."

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

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

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

9           B. "basic service" means service that is provided  
10 to a rural end-user customer that is consistent with the  
11 federal act;

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

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

19           ~~[G.]~~ E. "cable service" means the transmission to  
20 subscribers of video programming or other programming service  
21 and subscriber interaction, if any, that is required for the  
22 selection or use of the video programming or other programming  
23 service;

24           ~~[D.]~~ F. "commission" means the public regulation  
25 commission;

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1           G. "digital equity" means information technology  
 2 needed for civic and cultural participation, employment,  
 3 business and economic development, life-long learning and  
 4 access to essential services generally available to residents  
 5 regardless of their racial grouping, socioeconomic status or  
 6 cultural identity;

7           H. "digital inclusion" means access to and the  
 8 ability to use information technology by all residents of New  
 9 Mexico;

10          I. "division" means the broadband development  
 11 division of the department of information technology;

12          ~~[E.]~~ J. "eligible telecommunications carrier" means  
 13 an eligible telecommunications carrier as defined in the  
 14 federal act;

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

17          ~~[G.]~~ L. "fund" means the state rural universal  
 18 service fund;

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

21                   (1) was designated as an eligible  
 22 telecommunications carrier by the state corporation commission  
 23 in Docket #97-93-TC by order dated October 23, 1997, or that  
 24 provided local exchange service in this state on February 8,  
 25 1996; or

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

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

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

13 [~~K.~~] P. "local exchange service" means the  
14 transmission of two-way interactive switched voice  
15 communications furnished by a telecommunications carrier within  
16 a local exchange area;

17 [~~L.~~] Q. "long distance service" means  
18 telecommunications service between local exchange areas that  
19 originate and terminate within the state;

20 [~~M.~~] R. "private telecommunications service" means  
21 a system, including its construction, maintenance or operation  
22 for the provision of telecommunications service, or any portion  
23 of that service, by a person for the sole and exclusive use of  
24 that person and not for resale, directly or indirectly. For  
25 purposes of this definition, the person that may use the

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1 service includes any affiliates of the person if at least  
 2 eighty percent of the assets or voting stock of the affiliates  
 3 is owned by the person. If any other person uses the  
 4 telecommunications service, whether for hire or not, the  
 5 private telecommunications service is a public  
 6 telecommunications service;

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

19 ~~[O.]~~ T. "telecommunications carrier" means a person  
 20 that provides public telecommunications service."

21 **SECTION 12.** Section 63-9H-6 NMSA 1978 (being Laws 1999,  
 22 Chapter 295, Section 6, as amended) is amended to read:

23 "63-9H-6. STATE RURAL UNIVERSAL SERVICE FUND--  
 24 ESTABLISHMENT.--

25 A. The commission shall implement and maintain a

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

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

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

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

23 D. The commission shall:

24 (1) establish eligibility criteria for  
25 participation in the fund consistent with federal law that

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1 ensure the availability of universal service at affordable  
2 rates. The eligibility criteria shall not restrict or limit an  
3 eligible telecommunications carrier from receiving federal  
4 universal service support;

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

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

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

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

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

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1 rural area upon a finding that granting the application is in  
2 the public interest. In making a public interest finding, the  
3 commission may consider at least the following items:

4 (1) the impact of designation of an additional  
5 eligible carrier on the size of the fund;

6 (2) the unique advantages and disadvantages of  
7 the competitor's service offering; and

8 (3) any commitments made regarding the quality  
9 of telephone service.

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

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1 provisions regarding use of support from the fund.

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

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

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

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

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

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

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

20 L. The commission shall determine the methodology  
21 to be used to authorize payments to all other carriers that  
22 apply for and receive eligible carrier status; provided,  
23 however, that nothing in this section shall limit the  
24 commission's authority to adopt rules pursuant to Subsection F  
25 of this section regarding appropriate uses of fund support and

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1 any restrictions on the use of the fund support by eligible  
2 telecommunications carriers.

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

19 N. The commission shall adopt rules that establish  
20 and implement a broadband program to provide funding to  
21 eligible telecommunications carriers for the construction and  
22 maintenance of ~~[facilities capable of providing broadband~~  
23 ~~internet access service. Such rules shall require that the~~  
24 ~~commission consider applications for funding on a technology-~~  
25 ~~neutral basis and shall require that the awards of support be~~

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1 ~~consistent with federal universal service support programs and~~  
 2 ~~be based on the best use of the fund for rural areas of the~~  
 3 ~~state] broadband infrastructure. Each year, a minimum of [~~five~~~~

4 ~~million dollars (\$5,000,000)] eight million dollars~~

5 ~~(\$8,000,000) of the fund shall be dedicated to the broadband~~  
 6 ~~program.~~

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

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

11 (2) submit applications for funding to the  
 12 division for prioritization and alignment with the broadband  
 13 development plan to ensure digital equity and digital  
 14 inclusion; and

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

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

25 ~~[P. By December 31, 2019]~~ Q. By October 1 of each

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1 year, the commission shall make a report to the legislature  
2 regarding the status of the fund, including:

3 (1) relevant data relating to implementation  
4 of the broadband program and [~~expansion of broadband internet~~  
5 ~~access services~~] the progress toward digital equity and digital  
6 inclusion in rural areas of the state; [~~The report shall also~~  
7 ~~make~~]

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

12 (3) the service areas that received funding  
13 awards from the broadband program and the amounts of those  
14 awards."

15 SECTION 13. APPROPRIATION.--Nine hundred fifty thousand  
16 dollars (\$950,000) is appropriated from the general fund to the  
17 department of information technology for expenditure in fiscal  
18 year 2022 and subsequent fiscal years to implement the Connect  
19 New Mexico Act. Any unexpended or unencumbered balance  
20 remaining at the end of a fiscal year shall not revert to the  
21 general fund.

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