

HOUSE BILL 262

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

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AN ACT

RELATING TO BROADBAND; AMENDING SECTIONS OF THE CONNECT NEW MEXICO ACT; TRANSFERRING IMPLEMENTATION OF THE GRANT PROGRAM FROM THE CONNECT NEW MEXICO COUNCIL TO THE OFFICE OF BROADBAND ACCESS AND EXPANSION; MAKING TECHNICAL CORRECTIONS; PROVIDING DEFINITIONS.

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

SECTION 1. Section 63-9K-2 NMSA 1978 (being Laws 2021, Chapter 120, Section 2) is amended to read:

"63-9K-2. DEFINITIONS.--As used in the Connect New Mexico Act:

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

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1           B. "broadband infrastructure" means any cable or  
2 device used for high-capacity transmission of a wide range of  
3 frequencies ~~[enabling]~~ to provide internet services or  
4 otherwise enable a large number of electronic messages to be  
5 transmitted or received simultaneously;

6           C. "broadband office" means the office of broadband  
7 access and expansion;

8           ~~[E.]~~ D. "council" means the connect New Mexico  
9 council;

10           ~~[D. "department" means the department of~~  
11 ~~information technology; provided that, upon Senate Bill 93 of~~  
12 ~~the first session of the fifty-fifth legislature becoming law,~~  
13 ~~"department" means a state agency, department, division or~~  
14 ~~other organization unit designated in that law to plan or~~  
15 ~~coordinate broadband development efforts by all state~~  
16 ~~agencies;]~~

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

23           F. "digital inclusion" means access to and the  
24 ability to use information technologies;

25           G. "federal assistance funding" means federal grant

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1 and loan programs that provide full or matching funding for the  
2 development or maintenance of broadband infrastructure,  
3 training in the use or administration of internet-based  
4 services or the purchase of computers or other devices that  
5 access the internet;

6 H. "internet" means a global set of computing and  
7 electronic devices interconnected through networking  
8 infrastructures to provide data and information sharing and  
9 communication facilities;

10 ~~[H.]~~ I. "local government" means the government of  
11 a municipality, county or political subdivision of the state or  
12 an entity operating pursuant to a joint powers agreement  
13 pursuant to the Planning District Act or the Regional Planning  
14 Act;

15 ~~[H.]~~ J. "public educational institution" means a  
16 public school that receives state funding for its operations, a  
17 school district, a public post-secondary educational  
18 institution or a state agency that provides administrative  
19 services, funding or technical support to public schools,  
20 school districts and public post-secondary educational  
21 institutions;

22 ~~[J.]~~ K. "quality of service" means the standards  
23 for broadband service established by the ~~[department]~~ broadband  
24 office that meet or exceed the baseline standards established  
25 by the federal communications commission;

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1           ~~[K.]~~ L. "statewide broadband plan" means a plan  
2 developed by the ~~[department]~~ broadband office that may be an  
3 updated revision of the 2020 broadband plan; provided that,  
4 upon Senate Bill 93 of the first session of the fifty-fifth  
5 legislature becoming law, "statewide broadband plan" means the  
6 statewide broadband plan developed pursuant to that law;

7           ~~[L.]~~ M. "tribal government" means the government of  
8 a federally or state-recognized Indian nation, pueblo or tribe;

9           ~~[M.]~~ N. "underserved" means an area or property  
10 that does not receive internet quality of service access; and

11           ~~[N.]~~ O. "unserved" means an area or property that  
12 does not have internet access that meets the baseline standards  
13 established by the federal communications commission."

14           **SECTION 2.** Section 63-9K-3 NMSA 1978 (being Laws 2021,  
15 Chapter 120, Section 3) is amended to read:

16           "63-9K-3. COUNCIL CREATED--POWERS.--

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

19           B. The council is composed of the following fifteen  
20 members:

21                   (1) the secretary of transportation or the  
22 secretary's designee;

23                   (2) the secretary of economic development or  
24 the secretary's designee;

25                   (3) the secretary of cultural affairs or the

1 secretary's designee;

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

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

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

9 (7) the director of the public school  
10 facilities authority or the director's designee;

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

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

17 (b) one member appointed by the minority  
18 floor leader [~~in~~] of the house of representatives;

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

21 (d) one member appointed by the minority  
22 floor leader [~~in~~] of the senate; and

23 (e) one member appointed by the  
24 governor; and

25 (9) three members appointed by the secretary

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1 of Indian affairs: one representative of the Navajo Nation,  
2 one representative of Apache tribal governments and one  
3 representative of Indian pueblo tribal governments, who are  
4 experienced with broadband access and connectivity issues.

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

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

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

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

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

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1 F. Public members of the council are appointed  
2 public officials of the state while carrying out their duties  
3 and activities under the Connect New Mexico Act.

4 G. Council members shall be governed by the  
5 Governmental Conduct Act.

6 H. The council shall be staffed by the department."

7 SECTION 3. Section 63-9K-4 NMSA 1978 (being Laws 2021,  
8 Chapter 120, Section 4) is amended to read:

9 "63-9K-4. COUNCIL--DUTIES.--The council shall:

10 A. [~~in consultation with the department, coordinate~~  
11 ~~state agency~~] advise and make recommendations to the broadband  
12 office regarding the coordination of broadband programs and  
13 broadband projects in accordance with the statewide broadband  
14 plan;

15 B. [~~evaluate and prioritize grant proposals and~~  
16 ~~make grant awards~~] advise the broadband office concerning the  
17 development of a grant program and make recommendations for  
18 grant awards from the connect New Mexico fund; and

19 C. adopt rules [~~establishing a competitive grant~~  
20 ~~program to receive funds~~] regarding the administration of  
21 grants from the connect New Mexico fund. The rules shall  
22 include the application procedure, the required qualifications  
23 for projects and the purposes for which the grants may be  
24 used."

25 SECTION 4. Section 63-9K-5 NMSA 1978 (being Laws 2021,  
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1 Chapter 120, Section 5) is amended to read:

2 "63-9K-5. BROADBAND KNOWLEDGE AND DIGITAL EQUITY ANALYSIS  
3 AND PLAN--REPORT--INCLUSION IN STATEWIDE BROADBAND PLAN.--

4 A. The council shall consult local and tribal  
5 governments, public educational institutions and state agencies  
6 to develop a digital equity analysis and plan to address:

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

12 (2) the federal and private sector programs  
13 that could be applied to by state agencies or local or tribal  
14 governments to address the challenges identified in Paragraph  
15 (1) of this subsection; and

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

20 B. On or before August 1, 2023, the council shall  
21 report on the digital equity analysis and plan to the  
22 [department] broadband office and appropriate interim  
23 legislative committees.

24 C. On or before January 1, 2024, the [department]  
25 broadband office shall incorporate the digital equity analysis



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1 and plan and its recommendations into the statewide broadband  
2 plan.

3 D. The [~~department~~] broadband office shall  
4 cooperate with and provide relevant broadband-related  
5 information [~~collected or developed by the department~~] it  
6 collects or develops with the council."

7 SECTION 5. Section 63-9K-6 NMSA 1978 (being Laws 2021,  
8 Chapter 120, Section 6) is amended to read:

9 "63-9K-6. CONNECT NEW MEXICO FUND CREATED.--

10 A. The "connect New Mexico fund" is created in the  
11 state treasury. The fund consists of appropriations, gifts,  
12 grants and donations. Money in the fund is [~~subject to~~  
13 ~~appropriation by the legislature to the council for the purpose~~  
14 ~~of administering the broadband grant program. Disbursements~~  
15 ~~from the fund shall be made upon warrants drawn by the~~  
16 ~~secretary of finance and administration pursuant to vouchers~~  
17 ~~signed by the chair of the council~~] appropriated to and shall  
18 be administered by the broadband office pursuant to rules  
19 adopted by the council pursuant to Section 63-9K-4 NMSA 1978  
20 for the purpose of issuing grants pursuant to Subsection B of  
21 this section. Any unexpended or unencumbered balance in the  
22 fund remaining at the end of any fiscal year shall not revert  
23 to the general fund.

24 B. The [~~council~~] broadband council shall implement  
25 [~~the broadband~~] a grant program to develop and expand broadband  
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1 infrastructure and services and support digital inclusion;  
2 provided that the [~~council~~] broadband office shall each year  
3 seek to award grants for proposals submitted by the following  
4 entities throughout the state:

- 5 (1) local governments;
- 6 (2) state agencies;
- 7 (3) public educational institutions;
- 8 (4) tribal governments; [~~and~~]
- 9 (5) entities created by a joint powers  
10 agreement pursuant to the Joint Powers Agreements Act; and  
11 (6) private entities for broadband  
12 infrastructure to provide service primarily for residential  
13 purposes.

14 C. When approving grants from the connect New  
15 Mexico fund, the [~~council~~] broadband office shall give  
16 consideration to:

- 17 (1) the extent to which the project connects  
18 unserved and underserved populations of New Mexico, with  
19 priority given to projects that will connect unserved  
20 populations;
- 21 (2) the extent to which the project meets or  
22 exceeds the baseline standards established by the federal  
23 communications commission;
- 24 (3) the extent to which the project leverages  
25 existing infrastructure;

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

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

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

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

10 (8) the extent to which the project leverages  
11 in-kind or financial support from local agencies or entities,  
12 federal assistance funding or federal Coronavirus Aid, Relief,  
13 and Economic Security Act, federal Consolidated Appropriations  
14 Act, 2021 or federal American Rescue Plan Act of 2021 funding;  
15 and

16 (9) for a grant award to a private entity, the  
17 extent to which the grantee contributes matching funds or  
18 in-kind support for the project, the number of existing  
19 residences to which internet services would be made available  
20 as a percentage of the total number of existing locations to  
21 which internet services would be made available by the project  
22 and the extent to which the project fosters digital equity."

23 SECTION 6. Section 63-9K-7 NMSA 1978 (being Laws 2021,  
24 Chapter 120, Section 7) is amended to read:

25 "63-9K-7. DATA COLLECTION--ANNUAL REPORT.--

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1           A. By October 1 of each year, the department, in  
2 coordination with the ~~[council]~~ broadband office, shall provide  
3 to the appropriate legislative interim committees a report on  
4 the access to and quality of service of broadband across the  
5 state. Information shall be provided on a county-by-county  
6 basis.

7           B. The report shall contain the following  
8 information:

9                   (1) progress achieved toward digital equity  
10 and digital inclusion as identified in the digital equity  
11 analysis and plan;

12                   (2) progress achieved on implementation of the  
13 statewide broadband plan;

14                   (3) identified obstacles to an integrated  
15 system of permits, licenses and rules for broadband  
16 infrastructure across the state, including an expedited review  
17 process for rights of way use applications;

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

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

24                           (a) a list of grant recipients;

25                           (b) the amount and date of each grant;

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(c) a description of each project  
funded; and

(d) a description of how each project  
contributes to the statewide broadband plan and demonstrates  
increased access and quality of service for the unserved and  
underserved populations of New Mexico."