AN ACT

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

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

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

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

A. Except as otherwise provided in the New Mexico Telecommunications Act, each public telecommunications service is declared to be affected with the public interest and, as such, subject to the provisions of that act, including the regulation thereof as provided in that act.

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

(1) the commission's jurisdiction includes the regulation of wholesale rates, including access charges and interconnection agreements consistent with federal law and its enforcement and determinations of participation in low-income telephone service assistance programs pursuant to the Rural Telecommunications Act of New Mexico; and

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

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

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

(2) the rights and obligations of any competitive telecommunications service provider holding a

certificate of public convenience and necessity, or the rights and obligations of any competitive carrier to obtain such a certificate;

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

(4) the authority of the commission to establish reasonable quality of service standards; provided, however, that the enforcement of such standards shall be limited to the commission's fining authority set forth in Section 63-7-23 NMSA 1978 and the authority to seek an injunction set forth in Section 63-9-19 NMSA 1978;

(5) the rights and obligations of any entity, including the commission, regarding the fund;

(6) the rights and obligations of any entity, including the commission, regarding access to emergency service to the extent consistent with the Enhanced 911 Act; or

(7) the rights and obligations of any entity, including the commission, regarding the

administration of slamming and cramming rules, telecommunications relay service and numbering resources to the extent permitted by and consistent with federal law.

D. The provisions of the New Mexico Telecommunications Act do not apply to incumbent rural telecommunications carriers."

SECTION 2. Section 63-9D-5 NMSA 1978 (being Laws 1989, Chapter 25, Section 5, as amended) is amended to read:

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

A. A 911 emergency surcharge is imposed in the amount of one dollar ($1.00) to be billed to each subscriber access line by a communications service provider, on each active number for a commercial mobile radio service subscriber and on the number of VoIP lines for which the VoIP service provider enables the capacity for simultaneous calls, regardless of actual usage, to be connected to the public switched telephone network during the period for which the fixed charge is imposed. The surcharge is imposed on all subscribers whose place of primary use, as defined in the federal Mobile Telecommunications Sourcing Act, is in New Mexico; provided, however, that the surcharge shall not be imposed upon subscribers receiving reduced rates as a result of the low-income telecommunications assistance program pursuant to the Rural Telecommunications Act of New Mexico; and provided further that the surcharge shall not

apply to prepaid wireless communication service; and provided further that a 911 emergency surcharge shall not be assessed on the provision of broadband internet access service.

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

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

D. A communications service provider has no obligation to take legal action to enforce the collection of the surcharge; an action may be brought by or on behalf of the department. A communications service provider, upon request and not more than once a year, shall provide to the department a list of the surcharge amounts uncollected, along with the names and addresses of subscribers who carry a balance that can be determined by the communications service provider to be nonpayment of the surcharge. The communications service provider shall not be held liable for

uncollected surcharge amounts."

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

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

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

(1) by customers, except customers whose telephone service rates are reduced as a result of the low-income telecommunications assistance program pursuant to the Rural Telecommunications Act of New Mexico, for intrastate telecommunications services provided in this state;

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

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

(7) surcharges collected by sellers shall be remitted to the taxation and revenue department at the times and in the manner provided with respect to the Gross Receipts and Compensating Tax Act. The department shall establish registration and payment procedures that substantially

coincide with the registration and payment procedures that apply to the Gross Receipts and Compensating Tax Act. A seller shall be permitted to deduct and retain three percent of surcharges that are collected by the seller from the prepaid consumer;

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

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

(10) notwithstanding Paragraph (1) of this subsection, if a 911 surcharge is imposed on prepaid wireless communications service pursuant to the Enhanced 911 Act, the taxation and revenue department shall promulgate rules to permit sellers to combine the surcharge imposed pursuant to this section and the surcharge imposed pursuant to the Enhanced 911 Act into a single surcharge on the invoice, receipt or other similar document that is provided to the prepaid consumer. The department shall ensure that appropriate surcharge revenues are directed proportionately

to the respective 911 and telecommunications relay service funds.

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

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

(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:

A. "affordable rates" means rates for basic service that promote universal service, giving consideration to the economic conditions of households in the service area and costs to provide service in the area in which service is provided;

B. "basic service" means service that is provided that is consistent with the federal act:

(1) to a rural end-user customer; or

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

C. "broadband infrastructure" means facilities and equipment used to provide internet service, excluding telecommunications equipment owned, controlled or operated by a public or private end user;

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

E. "commission" means the public regulation commission;

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

G. "digital equity" means information technology needed for civic and cultural participation, employment,

education, business and economic development, lifelong learning and access to essential services generally available to residents regardless of their racial grouping, socioeconomic status or cultural identity;

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

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

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

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

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

(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;

O. "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;

R. "private telecommunications service" means a system, including its construction, maintenance or operation for the provision of telecommunications service, or any portion of that service, by a person for the sole and exclusive use of that person and not for resale, directly or indirectly. For purposes of this definition, the person that may use the service includes any affiliates of the person if at least eighty percent of the assets or voting stock of the affiliates is owned by the person. If any other person uses

the telecommunications service, whether for hire or not, the private telecommunications service is a public telecommunications service;

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

T. "rural area" means an unincorporated area or a city, a town or an incorporated area with a population of twenty thousand or less as reflected in the most recent federal decennial census or applicable tribal census;

U. "statewide broadband plan" means the plan developed by the office pursuant to the Broadband Access and Expansion Act;

V. "telecommunications carrier" means a person that provides public telecommunications service;

W. "underserved" means an area or property that

does not have access to fixed and mobile internet service offering speeds greater than one hundred megabits per second downstream and twenty megabits per second upstream; and

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

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

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

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

B. The commission has exclusive jurisdiction to regulate incumbent rural telecommunications carriers only in the manner and to the extent authorized by the Rural Telecommunications Act of New Mexico, and Section 63-7-1.1 NMSA 1978 does not apply; provided, however, that the commission's jurisdiction includes the regulation of wholesale rates, including access charges and interconnection agreements consistent with federal law and its enforcement

and a determination of participation in low-income telephone service assistance programs pursuant to the Rural Telecommunications Act of New Mexico.

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

(1) reduced filing requirements for applicants in rate increase proceedings under the Rural Telecommunications Act of New Mexico and proceedings under that act seeking 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 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 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 telecommunications assistance plan billed to end-user customers by a telecommunications carrier, and excluding all amounts from surcharges, gross receipts taxes, excise taxes, franchise fees and similar charges. For the purpose of funding the fund, the commission has the authority to apply the surcharge on intrastate retail public telecommunications services provided by telecommunications carriers, including commercial mobile radio services and voice over internet protocol services, at a competitively and technologically neutral rate or rates to be determined by the commission. The commission may establish the surcharge as a percentage of intrastate retail public telecommunications services revenue or as a fixed amount applicable to each communication connection. For purposes of this section, a "communication connection" means a voice-enabled telephone access line, wireless voice connection, unique voice over

internet protocol service connection or other uniquely identifiable functional equivalent as determined by the commission. Such surcharges shall be competitively and technologically neutral. Money deposited in the fund is not public money, and the administration of the fund is not subject to the provisions of law regulating public funds. The commission shall not apply this surcharge to a private telecommunications network; to the state, a county, a municipality or other governmental entity; to a public school district; to a public institution of higher education; to eligible households that participate in the low-income telecommunications assistance program; to an Indian nation, 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 for local residential and business services that shall be utilized in determining the level of support from the fund. The process for determining subsequent adjustments to the benchmark shall be established through a rulemaking.

E. All incumbent telecommunications carriers and competitive carriers already designated as eligible telecommunications carriers for the fund shall be eligible for participation in the fund. All other carriers that choose to become eligible to receive support from the fund may petition the commission to be designated as an eligible telecommunications carrier for the fund. The commission may grant eligible carrier status to a competitive carrier in a rural area upon a finding that granting the application is in

the public interest. In making a public interest finding, the commission may consider at least the following items:

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

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

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

F. The commission shall adopt rules, including a provision for variances, for the implementation and administration of the fund in accordance with the provisions of this section. The rules shall enumerate the appropriate uses of fund support and any restrictions on the use of fund support by eligible telecommunications carriers. The rules shall require that through December 31, 2028, an eligible telecommunications carrier receiving support from the fund pursuant to Subsection K, L, M or N of this section shall expend no less than sixty percent of the support it receives to deploy and maintain broadband internet access services in rural areas of the state. In subsequent years, the rules shall require that an eligible telecommunications carrier receiving support from the fund pursuant to Subsection K, L, M or N of this section shall expend no less than one hundred percent of the support it receives to deploy and maintain broadband internet access services. The rules also shall

provide for annual reporting by eligible telecommunications carriers verifying that the reporting carrier continues to meet the requirements for designation as an eligible telecommunications carrier for purposes of the fund and is in compliance with the commission's rules, including the provisions regarding use of support from the fund.

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

H. The fund established by the commission shall ensure the availability of universal service as determined by the commission at affordable rates in rural areas of the state; provided, however, that nothing in this section shall be construed as granting any authority to the commission to regulate broadband internet access services.

I. The commission shall ensure that intrastate switched access charges are equal to interstate switched access charges established by the federal communications

commission as of January 1, 2006. Nothing in this section shall preclude the commission from considering further adjustments to intrastate switched access charges based on changes to interstate switched access charges.

J. To ensure that providers of intrastate retail communications service contribute to the fund and to further ensure that the surcharge determined pursuant to Subsection B of this section to be paid by the end-user customer will be held to a minimum, the commission shall adopt rules, or take other appropriate action, to require all such providers to 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 each year shall be equal to the annual access reduction support payments for that eligible incumbent local exchange carrier for the year 2023.

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

(2) the commission shall award an applicant ongoing fund support at no less than the average access line amount of funding support for comparable carriers;

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

(4) nothing in this subsection shall limit the commission's authority to adopt rules regarding appropriate uses of fund support and any restrictions on the use of the fund support by eligible telecommunications carriers.

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

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

"LOW-INCOME TELECOMMUNICATIONS ASSISTANCE AND BROADBAND PROGRAMS--REPORTS.--

A. By January 1, 2027, the commission shall promulgate rules to implement a low-income telecommunications assistance program to ensure affordable access to telecommunications services to eligible low-income households in New Mexico. Rules adopted pursuant to this subsection

shall:

(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, a successor federal broadband affordability database or an alternative mechanism approved by the commission 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. 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.

C. 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 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.

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

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

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

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

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

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

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

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

(8) details regarding collaboration with the

office in the implementation and operation of the broadband program; and

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

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

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

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

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

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

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

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

SECTION 9. REPEAL.--Sections 63-9C-1 through 63-9C-6 NMSA 1978 (being Laws 1987, Chapter 197, Sections 1 through 6, as amended) are repealed.

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