

1 AN ACT
2 RELATING TO TELECOMMUNICATIONS; AMENDING SECTION 63-9H-6 NMSA
3 1978 (BEING LAWS 1999, CHAPTER 295, SECTION 6, AS AMENDED);
4 INCREASING THE AMOUNT FROM THE STATE RURAL UNIVERSAL SERVICE
5 FUND ALLOCATED TO THE BROADBAND PROGRAM FROM THIRTY MILLION
6 DOLLARS (\$30,000,000) LESS CERTAIN EXPENSES TO FORTY MILLION
7 DOLLARS (\$40,000,000) LESS CERTAIN EXPENSES; INCREASING THE
8 CAP ON OBLIGATIONS OF THE STATE RURAL UNIVERSAL SERVICE FUND
9 PLUS ADMINISTRATIVE EXPENSES AND A PRUDENT FUND BALANCE FROM
10 THIRTY MILLION DOLLARS (\$30,000,000) TO FORTY MILLION DOLLARS
11 (\$40,000,000).

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

14 SECTION 1. Section 63-9H-6 NMSA 1978 (being Laws 1999,
15 Chapter 295, Section 6, as amended) is amended to read:

16 "63-9H-6. STATE RURAL UNIVERSAL SERVICE FUND--
17 ESTABLISHMENT.--

18 A. The commission shall implement and maintain
19 a "state rural universal service fund" to maintain and
20 support universal service that is provided by eligible
21 telecommunications carriers, including commercial mobile
22 radio services carriers, as are determined by the commission.
23 As used in this section, "universal service" means basic
24 local exchange service, comparable retail alternative
25 services at affordable rates, service pursuant to a

1 low-income telephone assistance plan and broadband internet
2 access service to unserved and underserved areas as
3 determined by the commission.

4 B. The fund shall be financed by a surcharge on
5 intrastate retail public telecommunications services to be
6 determined by the commission, excluding services provided
7 pursuant to a low-income telephone assistance plan billed to
8 end-user customers by a telecommunications carrier, and
9 excluding all amounts from surcharges, gross receipts taxes,
10 excise taxes, franchise fees and similar charges. For the
11 purpose of funding the fund, the commission has the authority
12 to apply the surcharge on intrastate retail public
13 telecommunications services provided by telecommunications
14 carriers, including commercial mobile radio services and
15 voice over internet protocol services, at a competitively and
16 technologically neutral rate or rates to be determined by the
17 commission. The commission may establish the surcharge as a
18 percentage of intrastate retail public telecommunications
19 services revenue or as a fixed amount applicable to each
20 communication connection. For purposes of this section, a
21 "communication connection" means a voice-enabled telephone
22 access line, wireless voice connection, unique voice over
23 internet protocol service connection or other uniquely
24 identifiable functional equivalent as determined by the
25 commission. Such surcharges shall be competitively and

1 technologically neutral. Money deposited in the fund is not
2 public money, and the administration of the fund is not
3 subject to the provisions of law regulating public funds.
4 The commission shall not apply this surcharge to a private
5 telecommunications network; to the state, a county, a
6 municipality or other governmental entity; to a public school
7 district; to a public institution of higher education; to an
8 Indian nation, tribe or pueblo; or to Native American
9 customers who reside on tribal or pueblo land.

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

17 D. The commission shall:

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

24 (2) provide for the collection of the
25 surcharge on a competitively neutral basis and for the

1 administration and disbursement of money from the fund;

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

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

7 (5) establish affordability benchmark rates
8 for local residential and business services that shall be
9 utilized in determining the level of support from the fund.
10 The process for determining subsequent adjustments to the
11 benchmark shall be established through a rulemaking.

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

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

25 (2) the unique advantages and disadvantages

1 of the competitor's service offering; and

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

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

22 G. The commission shall, upon implementation of
23 the fund, select a neutral third-party administrator to
24 collect, administer and disburse money from the fund under
25 the supervision and control of the commission pursuant to

1 established criteria and rules promulgated by the commission.
2 The administrator may be reasonably compensated for the
3 specified services from the surcharge proceeds to be received
4 by the fund pursuant to Subsection B of this section. For
5 purposes of this subsection, the commission shall not be a
6 neutral third-party administrator.

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

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

21 J. To ensure that providers of intrastate retail
22 communications service contribute to the fund and to further
23 ensure that the surcharge determined pursuant to Subsection B
24 of this section to be paid by the end-user customer will be
25 held to a minimum, the commission shall adopt rules, or take

1 other appropriate action, to require all such providers to
2 participate in a plan to ensure accurate reporting.

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

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

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

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

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

1 (1) an eligible incumbent telecommunications
2 carrier that is not eligible for funding pursuant to rate
3 rebalancing in Subsection K of this section and that has been
4 previously authorized pursuant to Subsection N of this
5 section for need-based support may apply for ongoing fund
6 support;

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

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

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

24 N. The commission may also authorize payments from
25 the fund to incumbent rural telecommunications carriers or to

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

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

22 P. Rules adopted pursuant to Subsection O of this
23 section shall require that the commission:

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

1 (2) submit applications for funding to the
2 connect New Mexico council for prioritization and alignment
3 with the statewide broadband plan to ensure digital equity
4 and digital inclusion; and

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

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

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

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

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

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

24 S. The 2025 annual report made pursuant to
25 Subsection R of this section shall include an assessment of

1 the state rural universal service fund that addresses:

2 (1) whether to repurpose the access
3 reduction support funds into the commission's broadband
4 support program;

5 (2) a methodology for determining broadband
6 support levels that is consistent with the requirements of
7 Subsection C of this section and accounts, at a minimum, for
8 broadband costs, potential revenues from deployed
9 infrastructure and existing federal support mechanisms;

10 (3) the appropriate size of the fund;

11 (4) criteria for awarding funding;

12 (5) the impact of proposed changes on per-
13 connection assessments; and

14 (6) whether all sellers of prepaid
15 telecommunications services should be required to collect
16 state rural universal service fund assessments at the point
17 of sale, similar to the methodology for collecting 911
18 emergency surcharges pursuant to Section 63-9D-5 NMSA 1978."

19 SECTION 2. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2025. _____