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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;

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

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

D. "council" means the connect New Mexico council;

E. "department" means the department of information technology;

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

7           G. "digital inclusion" means access to and the  
8 ability to use information technologies;

9           H. "end-user" means an individual, business,  
10 institution or governmental entity that subscribes to an  
11 internet service and does not resell that service to other  
12 individuals or entities;

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

19           J. "internet" means a global set of computing and  
20 electronic devices interconnected through networking  
21 infrastructures to provide data and information sharing and  
22 communication facilities;

23           K. "local government" means the government of a  
24 municipality, county or political subdivision of the state or  
25 an entity operating pursuant to a joint powers agreement

1 pursuant to the Planning District Act or the Regional  
2 Planning Act;

3 L. "public educational institution" means a public  
4 school that receives state funding for its operations, a  
5 school district, a public post-secondary educational  
6 institution or a state agency that provides administrative  
7 services, funding or technical support to public schools,  
8 school districts and public post-secondary educational  
9 institutions;

10 M. "quality of service" means the standards for  
11 broadband service established by the broadband office that  
12 meet or exceed the baseline standards established by the  
13 federal communications commission;

14 N. "statewide broadband plan" means a plan  
15 developed by the broadband office that may be an updated  
16 revision of the 2020 broadband plan; provided that, upon  
17 Senate Bill 93 of the first session of the fifty-fifth  
18 legislature becoming law, "statewide broadband plan" means  
19 the statewide broadband plan developed pursuant to that law;

20 O. "tribal government" means the government of a  
21 federally or state-recognized Indian nation, pueblo or tribe;

22 P. "underserved" means an area or property that  
23 does not have access to internet service offering speeds  
24 greater than one hundred megabits downstream and twenty  
25 megabits upstream; and

1 Q. "unserved" means an area or property that  
2 either does not have access to internet service at all or  
3 only has access to internet service offering speeds below  
4 twenty-five megabits per second downstream or three megabits  
5 per second upstream."

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

8 "63-9K-3. COUNCIL CREATED--POWERS.--

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

11 B. The council is composed of the following  
12 fifteen members:

13 (1) the secretary of transportation or the  
14 secretary's designee;

15 (2) the secretary of economic development or  
16 the secretary's designee;

17 (3) the secretary of cultural affairs or the  
18 secretary's designee;

19 (4) the secretary of information technology  
20 or the secretary's designee;

21 (5) the executive director of the New Mexico  
22 mortgage finance authority or the executive director's  
23 designee;

24 (6) the secretary of higher education or the  
25 secretary's designee;

1 (7) the director of the public school  
2 facilities authority or the director's designee;

3 (8) five members of the public who have  
4 experience with broadband access and connectivity challenges  
5 for either private business or public institutions, appointed  
6 as follows:

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

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

11 (c) one member appointed by the  
12 president pro tempore of the senate;

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

15 (e) one member appointed by the  
16 governor; and

17 (9) three members appointed by the secretary  
18 of Indian affairs: one representative of the Navajo Nation,  
19 one representative of Apache tribal governments and one  
20 representative of Indian pueblo tribal governments, who are  
21 experienced with broadband access and connectivity issues.

22 C. The chair of the council shall be elected by a  
23 quorum of the council members. The council shall meet  
24 monthly or at the call of the chair. A majority of members  
25 constitutes a quorum for the transaction of business. The

1 affirmative vote of at least a majority of a quorum present  
2 shall be necessary for an action to be taken by the council.

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

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

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

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

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

21 G. Council members shall be governed by the  
22 Governmental Conduct Act.

23 H. The council shall be staffed by the  
24 department."

25 SECTION 3. Section 63-9K-4 NMSA 1978 (being Laws 2021,

1 Chapter 120, Section 4) is amended to read:

2 "63-9K-4. COUNCIL--DUTIES.--The council shall:

3 A. advise and make recommendations to the  
4 broadband office regarding the coordination of broadband  
5 programs and broadband projects in accordance with the  
6 statewide broadband plan;

7 B. advise the broadband office concerning the  
8 development of a grant program and make recommendations for  
9 grant awards from the connect New Mexico fund; and

10 C. adopt rules regarding the administration of  
11 grants from the connect New Mexico fund. The rules shall  
12 include the application procedure, the required  
13 qualifications for projects and the purposes for which the  
14 grants may be used."

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

17 "63-9K-5. BROADBAND KNOWLEDGE AND DIGITAL EQUITY  
18 ANALYSIS AND PLAN--REPORT--INCLUSION IN STATEWIDE BROADBAND  
19 PLAN.--

20 A. The council shall consult local and tribal  
21 governments, public educational institutions and state  
22 agencies to develop a digital equity analysis and plan to  
23 address:

24 (1) the challenges to digital inclusion that  
25 are posed by the lack of affordable quality service,

1 broadband-enabled devices or the knowledge of how to use the  
2 devices effectively in different age, cultural or geographic  
3 populations across the state;

4 (2) the federal and private sector programs  
5 that could be applied to by state agencies or local or tribal  
6 governments to address the challenges identified in Paragraph  
7 (1) of this subsection; and

8 (3) existing state programs or state  
9 programs that could be established that address or could  
10 leverage federal and private sector programs to address the  
11 challenges identified in Paragraph (1) of this subsection.

12 B. On or before August 1, 2023, the council shall  
13 report on the digital equity analysis and plan to the  
14 broadband office and appropriate interim legislative  
15 committees.

16 C. On or before January 1, 2024, the broadband  
17 office shall incorporate the digital equity analysis and plan  
18 and its recommendations into the statewide broadband plan.

19 D. The broadband office shall cooperate with and  
20 provide relevant broadband-related information it collects or  
21 develops with the council."

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

24 "63-9K-6. CONNECT NEW MEXICO FUND CREATED.--

25 A. The "connect New Mexico fund" is created in the



1 state treasury. The fund consists of appropriations, gifts,  
2 grants and donations. Money in the fund is subject to  
3 appropriation by the legislature to the council for the  
4 purpose of administering the broadband grant program.  
5 Disbursements from the fund shall be made upon warrants drawn  
6 by the secretary of finance and administration pursuant to  
7 vouchers signed by the chair of the council. Any unexpended  
8 or unencumbered balance in the fund remaining at the end of  
9 any fiscal year shall not revert to the general fund.

10 B. The broadband office shall implement a grant  
11 program to develop and expand broadband infrastructure and  
12 services and support digital inclusion; provided that the  
13 broadband office shall each year seek to award grants for  
14 proposals submitted by the following entities throughout the  
15 state:

- 16 (1) local governments;
- 17 (2) state agencies;
- 18 (3) public educational institutions;
- 19 (4) tribal governments;
- 20 (5) entities created by a joint powers  
21 agreement pursuant to the Joint Powers Agreements Act; and
- 22 (6) private entities for broadband  
23 infrastructure to provide service primarily for residential  
24 purposes.

25 C. When approving grants from the connect New

1 Mexico fund, the broadband office shall give consideration  
2 to:

3 (1) the extent to which the project connects  
4 unserved and underserved populations of New Mexico, with  
5 priority given to projects that will connect unserved  
6 populations;

7 (2) the extent to which the project meets or  
8 exceeds the baseline standards established by the federal  
9 communications commission;

10 (3) the extent to which the project  
11 leverages existing infrastructure;

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

14 (5) the extent to which the project  
15 leverages regional collaboration;

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

18 (7) the extent to which the project  
19 stimulates in-state economic development, including the  
20 creation of jobs and apprenticeships;

21 (8) the extent to which the project  
22 leverages in-kind or financial support from local agencies or  
23 entities, federal assistance funding or federal Coronavirus  
24 Aid, Relief, and Economic Security Act, federal Consolidated  
25 Appropriations Act, 2021 or federal American Rescue Plan Act

1 of 2021 funding; and

2 (9) for a grant award to a private entity,  
3 the extent to which the grantee contributes matching funds or  
4 in-kind support for the project, the number of existing  
5 residences to which internet services would be made available  
6 as a percentage of the total number of existing locations to  
7 which internet services would be made available by the  
8 project and the extent to which the project fosters digital  
9 equity."

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

12 "63-9K-7. DATA COLLECTION--ANNUAL REPORT.--

13 A. By October 1 of each year, the broadband  
14 office, in coordination with the council, shall provide to  
15 the appropriate legislative interim committees a report on  
16 the access to and quality of service of broadband across the  
17 state. Information shall be provided on a county-by-county  
18 basis.

19 B. The report shall contain the following  
20 information:

21 (1) progress achieved toward digital equity  
22 and digital inclusion as identified in the digital equity  
23 analysis and plan;

24 (2) progress achieved on implementation of  
25 the statewide broadband plan;

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

5 (4) recommended statutory, regulatory or  
6 policy changes and budget recommendations for the development  
7 and expansion of broadband infrastructure and digital equity  
8 and digital inclusion; and

9 (5) information on the broadband grant  
10 program, including:

11 (a) a list of grant recipients;  
12 (b) the amount and date of each grant;  
13 (c) a description of each project  
14 funded; and

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

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