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[California Law](#)
[Publications](#)
[Other Resources](#)
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### AB-14 Communications: broadband services: California Advanced Services Fund. (2021-2022)

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CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

## ASSEMBLY BILL

## NO. 14

**Introduced by Assembly Members Aguiar-Curry, Bloom, Bonta, Cristina Garcia, Eduardo Garcia, Low, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Robert Rivas, Santiago, Stone, and Weber**

**(Principal coauthors: Assembly Members Bauer-Kahan, Carrillo, and Irwin)**

**(Principal coauthors: Senators Eggman and Gonzalez)**

**(Coauthors: Assembly Members Burke, Muratsuchi, Blanca Rubio, Wicks, Wood, and Villapudua)**

**(Coauthors: Senators Limón and McGuire)**

**December 07, 2020**

An act to add Section 33314.5 to the Education Code, ~~to amend Section 53167 of, and~~ to add Section 12096.3.5 ~~to,~~ *to* the Government Code, and to amend Sections 281, 285, 912.2, ~~and 914.7~~ *914.7, and 2881* of, and to add Sections ~~281.2, 281.5,~~ *281.5* and 884.2 to, the Public Utilities Code, relating to communications, ~~making an appropriation therefor,~~ and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 14, as amended, Aguiar-Curry. Communications: broadband services: California Advanced Services Fund.

(1) Existing law establishes the State Department of Education in state government, and vests the department with specified powers and duties relating to the state's public school system.

This bill would authorize local educational agencies to report to the department their pupils' estimated needs for computing devices and internet connectivity adequate for at-home learning. The bill would require the department, in consultation with the Public Utilities Commission, to compile that information and to annually post that compiled information on the department's internet website.

(2) Existing law establishes the Governor's Office of Business and Economic Development, known as "GO-Biz," within the Governor's office to serve the Governor as the lead entity for economic strategy and the marketing of

California on issues relating to business development, private sector investment, and economic growth.

This bill would require the office to coordinate with other relevant state and local agencies and national organizations to explore ways to facilitate streamlining of local land use approvals and construction permit processes for projects related to broadband infrastructure deployment and connectivity.

~~(3) Existing law prohibits a city, county service area, community services district, public utility district, or municipal utility district that is authorized to provide broadband internet access service, as defined, in the state from blocking lawful content, applications, services, or nonharmful devices, impairing or degrading lawful internet traffic on the basis of internet content, application, or service or use of a nonharmful device, or engaging in paid prioritization, except as specified.~~

~~This bill would additionally prohibit a local educational agency, as defined, tribal government, or electrical cooperative that is otherwise authorized to engage in the provision of broadband internet access service in the state from taking those actions.~~

~~(4)~~

(3) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law requires the commission to develop, implement, and administer the California Advanced Services Fund (CASF) program to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies. Existing law requires the commission, in approving CASF infrastructure projects, to give preference to projects in areas where only dial-up internet service is available or where no internet service is available. Existing law authorizes the commission to impose a surcharge to collect \$330,000,000 for deposit into the CASF beginning January 1, 2018, and continuing through the 2022 calendar year. Existing law establishes 4 accounts, the Broadband Infrastructure Grant Account, the Rural and Urban Regional Broadband Consortia Grant Account, the Broadband Public Housing Account, and the Broadband Adoption Account within the CASF and specifies the amount of surcharge revenues to be deposited into each account, subject to appropriation by the Legislature. Existing law specifies, among other things, eligibility criteria for grants awarded from each of those accounts.

This bill would require the commission, in approving CASF infrastructure projects, to instead prioritize projects in unserved areas, as defined, where internet connectivity is available only at speeds at or below 10 megabits per second (mbps) downstream and one mbps upstream or areas with no internet connectivity and to further prioritize projects based on other specified attributes. The bill would authorize moneys appropriated for purposes of the CASF program to be used to match or leverage federal moneys for internet infrastructure and adoption, as specified. The bill would require the commission to maximize investments in new, robust, and scalable infrastructure and use CASF moneys to leverage federal and non-CASF moneys by undertaking specified activities. The bill would eliminate the commission's authority to collect the balance of the \$330,000,000 surcharge, and instead authorize the commission to collect up to \$150,000,000 per year to fund the CASF program through imposition of a new surcharge commencing January 1, ~~2022. The bill would continuously appropriate the moneys in the Rural and Urban Regional Broadband Consortia Grant Account and Broadband Adoption Account, and require the Controller to annually deposit, from revenues of that surcharge, \$8,000,000 into the Rural and Urban Regional Broadband Consortia Grant Account and \$4,000,000 into the Broadband Adoption Account. By requiring the deposit of those revenues into those continuously appropriated accounts, the bill would make an appropriation.~~ *2022, until either December 31, 2032, or the commission has approved funding for infrastructure projects that will provide broadband access to no less than 98% of California households in each consortia region, whichever occurs first.* The bill would revise, among other things, the eligibility criteria for grants awarded from the CASF accounts, including to authorize local ~~educational agencies, tribal governments, and electrical cooperatives~~ *agencies* to apply for funding pursuant to the CASF program, as specified. The bill would authorize the commission to require a performance metrics plan to improve the efficiency of the administration of grants awarded from the Broadband Adoption Account.

Existing law requires the commission to annually offer an existing facility-based broadband provider the opportunity to demonstrate that it will deploy broadband or upgrade existing facilities to a delineated unserved area within 180 days. Existing law prohibits the commission from approving funding from the Broadband Infrastructure Grant Account for a project to deploy broadband to a delineated unserved area if the existing facility-based broadband provider demonstrates to the commission, in response to the commission's annual offer, that it will deploy broadband or upgrade existing broadband service throughout the project area.

This bill would repeal that requirement and prohibition.

~~This bill would establish the Broadband Bond Financing and Securitization Account within the CASF and would require that moneys deposited into the account be used to pay costs related to broadband bond financing and securities. The bill would require each local governmental agency, local agency, or nonprofit organization allocated moneys from this account to file specified reports with the commission.~~

*Existing law requires any moneys in the Broadband Public Housing Account that have not been awarded by December 31, 2020, to be transferred back to the Broadband Infrastructure Grant Account.*

*This bill would repeal that requirement.*

Existing law requires the commission to conduct interim and final financial and performance audits of the implementation and effectiveness of the CASF program for specified ~~purposes and~~ purposes, to report the interim findings to the Legislature by April 1, 2020, and to report the final findings by April 1, 2023. Existing law repeals this requirement on January 1, 2027.

This bill would instead require the commission, on or before April 1, 2023, and biennially thereafter, to conduct a fiscal and performance audit of the implementation and effectiveness of the CASF program for those purposes and to report those findings to the Legislature. The bill would require the commission to submit that report indefinitely.

Existing law requires the commission, until April 1, 2023, to annually provide a report to the Legislature that includes certain information, including the remaining unserved areas in the state, the status of the CASF balance, and the projected amount to be collected in each year.

This bill would require the commission to submit that report indefinitely.

This bill would authorize the commission to require each internet service provider, as defined, to report specified information regarding each free, low-cost, income-qualified, or affordable internet service plan advertised by the provider.

~~(5)~~

*(4) Existing law requires the commission to require interconnected Voice over Internet Protocol service providers to collect and remit surcharges on their California intrastate revenues in support of the public purpose program funds. Existing law authorizes those providers to use certain methodologies to identify their intrastate revenues subject to the surcharge.*

This bill would repeal that authorization to use those methodologies.

*(5) Existing law establishes the ~~d~~Deaf and Disabled Telecommunications Program and requires the commission to establish a rate recovery mechanism through a surcharge not to exceed  $\frac{1}{2}$  of 1% uniformly applied to a subscriber's intrastate telephone service, other than one-way radio paging service and universal telephone service, until January 1, 2025, to allow providers of equipment and service pursuant to that program to recover their costs as they are incurred.*

*This bill would instead require the commission to administer a surcharge to collect revenues of up to \$100,000,000 per year until January 1, 2025, subject to an annual appropriation of moneys by the Legislature, to allow providers of equipment and service pursuant to the deaf and disabled telecommunications program to recover their costs as they are incurred.*

(6) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because certain of the above provisions would be part of the act and a violation of a commission action implementing this bill's requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.~~

~~This bill would make legislative findings to that effect.~~

~~(8)~~

(7) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: ~~yes~~no Fiscal Committee: yes Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** (a) The Legislature finds and declares both of the following:

(1) The creation of a fiber optic network for "middle-mile" broadband service deployment and "backhaul" infrastructure for unserved households, community anchor institutions, small businesses, and employers is critical to close the digital divide.

(2) All state agencies and departments with pertinent authority and resources to assist and facilitate timely deployment of broadband infrastructure throughout California must be engaged and coordinated by the administration and California Broadband Council to coordinate actions to achieve the goals and purposes of the Internet for All Now Act (Chapter 851 of the Statutes of 2017).

(b) It is the intent of the Legislature to close the digital divide by connecting students, families, and communities with reliable internet connectivity that will remain a necessity after the COVID-19 pandemic has abated.

(c) It is the intent of the Legislature that California achieve the goal specified in the Internet for All Now Act of providing broadband access to no less than 98 percent of California households in each California Advanced Services Fund consortia region.

**SEC. 2.** Section 33314.5 is added to the Education Code, to read:

**33314.5.** (a) A local educational agency may report to the department the agency's pupils' estimated needs for computing devices and internet connectivity adequate for at-home learning.

(b) The department, in consultation with the Public Utilities Commission, shall compile the information reported pursuant to subdivision (a) and shall annually post that compiled information on the department's internet website.

**SEC. 3.** Section 12096.3.5 is added to the Government Code, to read:

**12096.3.5.** The office shall coordinate with other relevant state and local agencies and national organizations to explore ways to facilitate streamlining of local land use approvals and construction permit processes for projects related to broadband infrastructure deployment and connectivity.

~~SEC. 4. Section 53167 of the Government Code is amended to read:~~

~~53167. For purposes of this article:~~

~~(a) "Broadband internet access service" means a mass-market retail service provided by a local agency in California by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service. "Broadband internet access service" also encompasses any service provided by a local agency in California that provides a functional equivalent of that service or that is used to evade the protections set forth in this article.~~

~~(b) "Edge provider" means any individual or entity that provides any content, application, or service over the internet, and any individual or entity that provides a device used for accessing any content, application, or service over the internet to an end user.~~

~~(c) "End user" means any individual or entity in California that uses a broadband internet access service that is provided by a local agency.~~

~~(d) "Fixed broadband internet access service" means any broadband internet access service that serves end users primarily at fixed endpoints using stationary equipment. Fixed broadband internet access service includes fixed wireless services, including fixed unlicensed wireless services, and fixed satellite services.~~

~~(e)"Local agency" means any agency of local government authorized by any other law to provide broadband internet access service, including the following:~~

~~(1)A city.~~

~~(2)A county, including a county service area.~~

~~(3)A community services district.~~

~~(4)A public utility district.~~

~~(5)A municipal utility district.~~

~~(6)A local educational agency as defined in Section 47640 of the Education Code.~~

~~(7)A tribal government.~~

~~(8)An electrical cooperative as defined in Section 2776 of the Public Utilities Code.~~

~~(f)"Mobile broadband internet access service" means any broadband internet access service that serves end users primarily using mobile stations.~~

~~(g)"Network management practice" means a practice that has a primarily technical network management justification, but does not include other business practices.~~

~~(h)"Paid prioritization" means the management of a broadband provider's network to directly or indirectly favor some traffic over other traffic, including through the use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, that either:~~

~~(1)Is in exchange for consideration, monetary or otherwise, from a third party.~~

~~(2)Done to benefit an affiliated entity.~~

~~(i)"Reasonable network management" means a network management practice that is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband internet access service.~~

**SEC. 5.** **SEC. 4.** Section 281 of the Public Utilities Code is amended to read:

**281.** (a) The commission shall develop, implement, and administer the California Advanced Services Fund program to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies, consistent with this section and with the statements of intent in Section 2 of the Internet for All Now Act (Chapter 851 of the Statutes of 2017).

(b) (1) (A) The goal of the program is to approve funding for infrastructure projects that will provide broadband access to no less than 98 percent of California households in each consortia ~~region, as identified by the commission on or before January 1, 2017.~~ *region*. The commission shall be responsible for achieving the goals of the program.

(B) For purposes of this section, the following definitions apply:

(i) "Anchor institution" means *a local facility that serves a substantial public purpose, as determined by the commission, including, but not limited to,* schools maintaining kindergarten or any of grades 1 to 12, inclusive, institutions of higher learning, community colleges, fairgrounds, libraries, hospitals, health clinics, public safety entities, government buildings, and community facilities owned or operated by local governments or nonprofits.

(ii) "High-poverty area" means a census tract in which at least 50 percent of the residents are designated as low income according to the most recent, as of December 31, 2020, five-year data series available from the American Community Survey in the United States Census Bureau.

~~(iii)"Local agency" has the same meaning as defined in Section 53167 of the Government Code.~~

~~(iv)~~

*(iii)* "Mbps" means megabits per second.

~~(v)~~

(iv) (I) Except as provided in subclause (II), "unserved area" means an area ~~for which at least 90 percent of the population~~ *that* has no facility-based broadband provider offering at least one tier of broadband service at speeds of at least 25 mbps downstream and 3 mbps upstream and a latency that is sufficiently low to allow real-time interactive applications.

(II) For projects funded, in whole or in part, from moneys received from the federal Rural Digital Opportunity Fund, "unserved area" means an area in which no facility-based broadband provider offers broadband service at speeds consistent with the standards established by the Federal Communications Commission pursuant to In the Matter of Rural Digital Opportunity Fund, WC Docket No. 19-126, Report and Order, FCC 20-5 (adopted January 30, 2020, and released February 7, 2020), or a greater updated speed standard if the commission integrates it into the California Advanced Services Fund program pursuant to Section 281.5.

(2) In approving infrastructure projects, the commission shall do all of the following:

(A) Approve projects that provide last-mile broadband access to unserved areas.

(B) (i) Prioritize projects in unserved areas where internet connectivity is available only at speeds at or below 10 mbps downstream and one mbps upstream or areas with no internet connectivity.

(ii) This subparagraph does not prohibit the commission from approving funding for projects outside of the areas specified in clause (i).

(C) Prioritize projects in high-poverty areas.

(D) Prioritize projects that facilitate the achievement of the goal specified in subparagraph (A) of paragraph (1).

(3) Moneys appropriated for purposes of this section may be used to match or leverage federal moneys for internet infrastructure and adoption, including, but not limited to, moneys from the United States Department of Commerce Economic Development Administration, United States Department of Agriculture ReConnect Loan and Grant Program, and Federal Communications Commission for internet adoption and infrastructure.

(4) The commission shall transition California Advanced Services Fund program methodologies to service "housing units" and evaluate other program changes to align with other funding sources, including, but not limited to, funding "locations."

(5) The commission shall maximize investments in new, robust, and scalable infrastructure and use California Advanced Services Fund moneys to leverage federal and non-California Advanced Services Fund moneys by undertaking ~~activities~~ *activities*, including, but not limited to, all of the following:

(A) Provision of technical assistance to local governments and providers.

(B) Assistance in developing grant applications.

(C) Assistance in preparing definitive plans for deploying necessary infrastructure in each county.

(c) The commission shall establish the following accounts within the fund:

(1) The Broadband Infrastructure Grant Account.

(2) The Rural and Urban Regional Broadband Consortia Grant Account. ~~Notwithstanding Section 13340 of the Government Code, the moneys in the account are continuously appropriated to the commission for purposes of subdivision (g).~~

(3) The Broadband Public Housing Account.

(4) The Broadband Adoption Account. ~~Notwithstanding Section 13340 of the Government Code, the moneys in the account are continuously appropriated to the commission for purposes of subdivision (j).~~

~~(5) The Broadband Bond Financing and Securitization Account.~~

(d) (1) ~~(A)~~ The commission may impose a surcharge to fund the California Advanced Services Fund program pursuant to this ~~section~~. *section until either December 31, 2032, or the commission has determined that the goal specified in subparagraph (A) of paragraph (1) of subdivision (b) has been achieved, whichever occurs first.* If

the commission imposes the surcharge, the commission shall transfer the moneys received by the commission from the surcharge to the Controller for deposit into the California Advanced Services Fund.

~~(B) Of any moneys transferred to the Controller pursuant to subparagraph (A), the Controller shall annually deposit the first twelve million dollars (\$12,000,000) into the Rural and Urban Regional Broadband Consortia Grant Account and Broadband Adoption Account. The moneys to be deposited shall be divided between the accounts so that two-thirds of the moneys are deposited into the Rural and Urban Regional Broadband Consortia Grant Account and one-third of the moneys are deposited into the Broadband Adoption Account.~~

(2) All interest earned on moneys in the fund shall be deposited into the fund.

(3) The commission may make recommendations to the Legislature regarding appropriations from the California Advanced Services Fund and the accounts established pursuant to subdivision (c).

(4) The commission may collect a sum not to exceed one hundred fifty million dollars (\$150,000,000) per year, starting on January 1, 2022, by imposing the surcharge pursuant to paragraph (1).

(e) All moneys in the California Advanced Services Fund, including moneys in the accounts within the fund, ~~except those accounts that are continuously appropriated,~~ shall be available, upon appropriation by the Legislature, to the commission for the California Advanced Services Fund program administered by the commission pursuant to this section, including the costs incurred by the commission in developing, implementing, and administering the program and the fund.

(f) (1) The commission shall award grants from the Broadband Infrastructure Grant Account on a technology-neutral basis, including both wireline and wireless technology.

(2) The commission shall consult with regional consortia, stakeholders, local governments, existing facility-based broadband providers, and consumers regarding unserved areas and cost-effective strategies to achieve the broadband access goal through public workshops conducted at least annually no later than April 30 of each year.

(3) The commission shall identify unserved rural and urban areas and delineate the areas in the annual report prepared pursuant to Section 914.7.

(4) An existing facility-based broadband provider may, but is not required to, apply for funding from the Broadband Infrastructure Grant Account to make an upgrade pursuant to this subdivision.

(5) Projects eligible for grant awards shall meet all of the following requirements:

(A) The project deploys infrastructure capable of providing broadband access at speeds of a minimum of 100 mbps downstream and 20 mbps upstream, or a greater updated speed standard if the commission integrates it into the California Advanced Services Fund program pursuant to Section 281.5, to ~~unserved areas or unserved households in census blocks where no provider offers access at speeds of at least 10 mbps downstream and one mbps upstream.~~ *households.*

(B) All or a significant portion of the project deploys last-mile infrastructure to provide service to unserved areas. Projects that only deploy middle-mile infrastructure are not eligible for grant funding. For a project that includes funding for middle-mile infrastructure, the commission shall verify that the proposed middle-mile infrastructure is indispensable for accessing the last-mile infrastructure.

(C) (i) Except as provided in clause (ii), until July 1, 2020, the project is not located in a census block where an existing facility-based broadband provider has accepted federal funds for broadband deployment from Phase II of the Connect America Fund, unless the existing facility-based broadband provider has notified the commission before July 1, 2020, that it has completed its Connect America Fund deployment in the census block.

(ii) An existing facility-based broadband provider is eligible for a grant pursuant to this subdivision to supplement a grant pursuant to Phase II of the Connect America Fund to expand broadband service within identified census blocks, as needed.

(6) (A) An individual household or property owner shall be eligible to apply for a grant to offset the costs of connecting the household or property to an existing or proposed facility-based broadband provider. Any infrastructure built to connect a household or property with funds provided under this paragraph shall become the property of, and part of, the network of the facility-based broadband provider to which it is connected.

(B) (i) In approving a project pursuant to this paragraph, the commission shall consider limiting funding to households based on income so that funds are provided only to households that would not otherwise be able to



afford a line extension to the property, limiting the amount of grants on a per-household basis, and requiring a percentage of the project to be paid by the household or the owner of the property.

(ii) The aggregate amount of grants awarded pursuant to this paragraph shall not exceed five million dollars (\$5,000,000).

(7) An entity that is not a telephone corporation shall be eligible to apply to participate in the program administered by the commission pursuant to this section to provide access to broadband to an unserved area if the entity otherwise meets the eligibility requirements and complies with program requirements established by the commission.

(8) ~~(A)~~ The commission shall provide each applicant, and any party challenging an application, the opportunity to demonstrate actual levels of broadband service in the project area, which the commission shall consider in reviewing the application.

~~(B) The commission may approve an application for funding to deploy broadband or upgrade broadband services only upon making a finding that the existing facility-based broadband provider is unwilling or unable to deploy broadband throughout the project area.~~

(9) ~~A local governmental agency, including Organizations eligible for grants pursuant to this subdivision include, but are not limited to, a local agency, special district, or joint powers authority, is eligible for a grant pursuant to this subdivision. A local government within an area of a regional consortium shall consult that regional consortium about planning, application, and implementation of a project receiving a grant. tribal government, electrical cooperative, as defined in Section 2776, or local educational agency, as defined in Section 47640 of the Education Code.~~

(10) The commission shall establish a service list of interested parties to be notified of any California Advanced Services Fund applications. Any application and any amendment to an application for project funding, and any request for additional funding after an initial grant, shall be served to those on the service list and posted on the commission's internet website at least 30 days before publishing the corresponding draft resolution.

(11) A grant awarded pursuant to this subdivision may include funding for the following costs consistent with paragraph (5):

(A) Costs directly related to the deployment of infrastructure.

(B) Costs to lease access to property or for internet backhaul services for a period not to exceed five years.

(C) Costs incurred by an existing facility-based broadband provider to upgrade its existing facilities to provide for interconnection.

(12) The commission may award grants to fund all or a portion of the project. The commission shall determine, on a case-by-case basis, the level of funding to be provided for a project and shall consider factors that include, but are not limited to, the location and accessibility of the area, the existence of communication facilities that may be upgraded to deploy broadband, and whether the project makes a significant contribution to achievement of the program goal.

(13) The commission may require each infrastructure grant applicant to indicate steps taken to first obtain any available funding from the Connect America Fund program or similar federal public programs that fund broadband infrastructure. This paragraph does not authorize the commission to reject a grant application on the basis that an applicant failed to seek project funding from the Connect America Fund program or another similar federal public program.

~~(14) The commission shall prioritize a grant application for a project that offers both of the following:~~

~~(A) Open-access fiber middle-mile backhaul.~~

~~(B) Capacity for interconnection of unserved areas and anchor institutions along the path of deployment at speeds of 100 mbps downstream and 20 mbps upstream.~~

~~(15) The commission shall prioritize a grant application for a project for an anchor institution that maximizes available federal, local, or state moneys to fund broadband infrastructure for its interconnection.~~

~~(16) The commission shall authorize the interconnection of anchor institutions on a fair cost-sharing basis along the path of deployment.~~



(g) (1) Moneys in the Rural and Urban Regional Broadband Consortia Grant Account shall be available for grants to eligible consortia to facilitate deployment of broadband services by assisting infrastructure applicants in the project development or grant application process. An eligible consortium may include, as specified by the commission, representatives of organizations, including, but not limited to, local and regional government, public safety, elementary and secondary education, health care, libraries, postsecondary education, community-based organizations, tourism, parks and recreation, agricultural, business, workforce organizations, local agencies, and air pollution control or air quality management districts, and is not required to have as its lead fiscal agent an entity with a certificate of public convenience and necessity.

(2) Each consortium shall conduct an annual audit of its expenditures for programs funded pursuant to this subdivision and shall submit to the commission an annual report, which shall be posted on the commission's internet website, that includes both of the following:

(A) A description of activities completed during the prior year, how each activity promotes the deployment of broadband services, and the cost associated with each activity.

(B) The number of project applications assisted.

(h) (1) All remaining moneys in the Broadband Infrastructure Revolving Loan Account that are unencumbered as of January 1, 2018, shall be transferred into the Broadband Infrastructure Grant Account.

(2) All repayments of loans funded by the former Broadband Infrastructure Revolving Loan Account shall be deposited into the Broadband Infrastructure Grant Account.

(i) (1) For purposes of this subdivision, the following terms have the following meanings:

(A) "Publicly subsidized" means either that the housing development receives financial assistance from the United States Department of Housing and Urban Development pursuant to an annual contribution contract or is financed with low-income housing tax credits, tax-exempt mortgage revenue bonds, general obligation bonds, or local, state, or federal loans or grants and the rents of the occupants, who are lower income households, do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

(B) "Publicly supported community" means a publicly subsidized multifamily housing development that is wholly owned by either of the following:

(i) A public housing agency that has been chartered by the state, or by any city or county in the state, and has been determined to be an eligible public housing agency by the United States Department of Housing and Urban Development.

(ii) An incorporated nonprofit organization as described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3)) that is exempt from taxation under Section 501(a) of that code (26 U.S.C. Sec. 501(a)), and that has received public funding to subsidize the construction or maintenance of housing occupied by residents whose annual income qualifies as "low" or "very low" income according to federal poverty guidelines.

(2) Moneys in the Broadband Public Housing Account shall be available for the commission to award grants and loans pursuant to this subdivision to an eligible publicly supported community if that entity otherwise meets eligibility requirements and complies with program requirements established by the commission.

(3) (A) Not more than twenty million dollars (\$20,000,000) of the moneys deposited into the Broadband Public Housing Account on or before January 1, 2018, shall be available for grants and loans to a publicly supported community to finance a project to connect a broadband network to that publicly supported community. A publicly supported community may be an eligible applicant only if the publicly supported community can verify to the commission that the publicly supported community has not denied a right of access to any broadband provider that is willing to connect a broadband network to the facility for which the grant or loan is sought.

(B) Only after all funds available pursuant to this paragraph in the Broadband Public Housing Account have been awarded may a publicly supported community otherwise eligible to submit an application for funding from the Broadband Public Housing Account submit an application for funding for these purposes from the Broadband Infrastructure Grant Account.

(4) (A) Not more than five million dollars (\$5,000,000) of the moneys deposited into the Broadband Public Housing Account on or before January 1, 2018, shall be available for grants and loans to a publicly supported community to support programs designed to increase adoption rates for broadband services for residents of that

publicly supported community. A publicly supported community may be eligible for funding for a broadband adoption program only if the residential units in the facility to be served have access to broadband services or will have access to broadband services at the time the funding for adoption is implemented.

(B) A publicly supported community may contract with other nonprofit or public agencies to assist in implementation of a broadband adoption program.

(C) Only after all funds available pursuant to this paragraph in the Broadband Public Housing Account have been awarded may a publicly supported community otherwise eligible to submit an application for funding from the Broadband Public Housing Account submit an application for funding for these purposes from the Broadband Adoption Account pursuant to subdivision (j).

(5) To the extent feasible, the commission shall approve projects for funding from the Broadband Public Housing Account in a manner that reflects the statewide distribution of publicly supported communities.

(6) In reviewing a project application under this subdivision, the commission shall consider the availability of other funding sources for that project, any financial contribution from the broadband service provider to the project, the availability of any other public or private broadband adoption or deployment program, including tax credits and other incentives, and whether the applicant has sought funding from, or participated in, any reasonably available program. The commission may require an applicant to provide match funding, and shall not deny funding for a project solely because the applicant is receiving funding from another source.

~~(7) Any moneys in the Broadband Public Housing Account that have not been awarded pursuant to this subdivision by December 31, 2020, shall be transferred back to the Broadband Infrastructure Grant Account.~~

(j) (1) Moneys in the Broadband Adoption Account shall be available to the commission to award grants to increase publicly available or after school broadband access and digital inclusion, such as grants for digital literacy training programs and public education to communities with limited broadband adoption, including low-income communities, senior communities, and communities facing socioeconomic barriers to broadband adoption.

(2) Eligible applicants are local governments, local agencies, senior centers, schools, public libraries, nonprofit organizations, and community-based organizations with programs to increase publicly available or after school broadband access and digital inclusion, such as digital literacy training programs.

(3) Payment pursuant to a grant for digital inclusion shall be based on digital inclusion metrics established by the commission that may include the number of residents trained, the number of residents served, or the actual verification of broadband subscriptions resulting from the program funded by the grant.

(4) The commission shall, in a new or existing proceeding, develop, by June 30, 2018, criteria for awarding grants and a process and methodology for verifying outcomes. The commission shall be prepared to accept applications for grants from the Broadband Adoption Account no later than July 1, 2018.

(5) The commission shall give preference to programs in communities with demonstrated low broadband access, including low-income communities, senior communities, and communities facing socioeconomic barriers to broadband adoption. In the proceeding specified in paragraph (4), the commission shall determine how best to prioritize projects for funding pursuant to this paragraph.

(6) Moneys awarded pursuant to this subdivision shall not be used to subsidize the costs of providing broadband service to households.

(7) For purposes of improving the efficiency of the administration of grants awarded from the Broadband Adoption Account, the commission may require a performance metrics plan that includes both of the following:

(A) A detailed description of how outcomes will be measured and tracked for milestone or completion reports. Outcomes include, but are not limited to, all of the following:

(i) The total number of participants trained or provided access.

(ii) The total number of hours that training or access has been provided to the community and the number of participants served.

(iii) The number of participants that subsequently subscribe to a broadband internet service provider to use a device in their home.

(B) Methods of tracking, such as verification of subscription online through internet service providers, billing, surveys, sign-in sheets, or other methodologies.

(k) The commission shall post on the home page of the California Advanced ~~Service~~ **Services** Fund program on its internet website a list of all pending applications, application challenge deadlines, and notices of amendments to pending applications.

(l) The commission shall notify the appropriate policy committees of the Legislature on the date on which the goal specified in paragraph (1) of subdivision (b) is achieved.

~~SEC. 6.~~ **Section 281.2 is added to the Public Utilities Code, to read:**

~~281.2.(a)Moneys deposited into the Broadband Bond Financing and Securitization Account within the California Advanced Services Fund shall be used to pay costs related to broadband bond financing and securities, including, but not limited to, the financing of the deployment of broadband infrastructure by a local governmental agency, local agency, or nonprofit organization. Payments for broadband bond financing and securities may include, but are not limited to, payment of costs of debt issuance, obtaining credit enhancement, and establishment and funding of reserves for the payment of principal and interest on the debt.~~

~~(b)The commission may establish eligibility requirements for infrastructure projects deployed using financing supported in whole or in part by moneys allocated pursuant to this section.~~

~~(c)The commission may require a local governmental agency, local agency, or nonprofit organization to provide information demonstrating the local governmental agency, local agency, or nonprofit organization's ability to reasonably finance and implement the infrastructure project deployed using financing supported in whole or in part by moneys allocated pursuant to this section.~~

~~(d)The commission shall require each local governmental agency, local agency, or nonprofit organization allocated moneys pursuant to this section to file both of the following reports in the form and manner specified by the commission:~~

~~(1)Biennial progress reports identifying project milestones and completion percentage to date.~~

~~(2)A completion report including a full description of the completed project, comparison of approved versus actual costs of construction, and speed test data for all areas served by the project.~~

~~SEC. 7.~~ **SEC. 5.** Section 281.5 is added to the Public Utilities Code, to read:

**281.5.** Upon the Federal Communications Commission updating or modifying its broadband speed standard, the commission shall review that updated speed standard and, if the commission determines that doing so is consistent with the goals of the California Advanced Services Fund program and appropriate, integrate that updated speed standard into the California Advanced Services Fund program.

~~SEC. 8.~~ **SEC. 6.** Section 285 of the Public Utilities Code is amended to read:

**285.** (a) As used in this section, "interconnected Voice over Internet Protocol (VoIP) service" has the same meaning as in Section 9.3 of Title 47 of the Code of Federal Regulations.

(b) The Legislature finds and declares that the sole purpose of this section is to require the commission to impose the surcharges pursuant to this section to ensure that end-use customers of interconnected VoIP service providers contribute to the funds enumerated in this section, and, therefore, this section does not indicate the intent of the Legislature with respect to any other purpose.

(c) The commission shall require interconnected VoIP service providers to collect and remit surcharges on their California intrastate revenues in support of the following public purpose program funds:

(1) California High-Cost Fund-A Administrative Committee Fund under Section 275.

(2) California High-Cost Fund-B Administrative Committee Fund under Section 276.

(3) Universal Lifeline Telephone Service Trust Administrative Committee Fund under Section 277.

(4) Deaf and Disabled Telecommunications Program Administrative Committee Fund under Section 278.

(5) California Teleconnect Fund Administrative Committee Fund under Section 280.

(6) California Advanced Services Fund under Section 281.

(d) The authority to impose a surcharge pursuant to this section applies only to a surcharge imposed on end-use customers for interconnected VoIP service provided to an end-use customer's place of primary use that is located within California. As used in this subdivision, "place of primary use" means the street address where the end-use customer's use of interconnected VoIP service primarily occurs, or a reasonable proxy as determined by the interconnected VoIP service provider, such as the customer's registered location for 911 purposes.

~~SEC. 9.~~**SEC. 7.** Section 884.2 is added to the Public Utilities Code, to read:

**884.2.** The commission may require each internet service provider, as defined in Section 3100 of the Civil Code, to report the following information regarding each free, low-cost, income-qualified, or affordable internet service plan advertised by the provider:

- (a) The cost of the plan, including any fees and taxes.
- (b) The eligibility requirements for the plan.
- (c) The data limitations of the plan.
- (d) The number of California residents enrolled in the plan.
- (e) A description of the outreach efforts undertaken by the provider to eligible populations to increase awareness about the plan.

~~SEC. 10.~~**SEC. 8.** Section 912.2 of the Public Utilities Code is amended to read:

**912.2.** On or before April 1, 2023, and biennially thereafter, the commission shall conduct a fiscal and performance audit of the implementation and effectiveness of the California Advanced Services Fund program to ensure that funds have been expended in accordance with the approved terms of the grant awards and loan agreements pursuant to Section 281, and shall report its findings to the Legislature. Each report shall include an update to the maps in the final report of the California Broadband Task Force and data on the types and numbers of jobs created as a result of the program administered by the commission pursuant to Section 281.

~~SEC. 11.~~**SEC. 9.** Section 914.7 of the Public Utilities Code is amended to read:

**914.7.** By April 1, 2019, and by April 1 of each year thereafter, the commission shall provide a report to the Legislature that includes all of the following information:

- (a) The remaining unserved areas in the state.
- (b) The amount of funds expended from the California Advanced Services Fund in the prior year.
- (c) The recipients of funds expended from the California Advanced Services Fund in the prior year.
- (d) The geographic regions of the state affected by funds expended from the California Advanced Services Fund in the prior year, including information by county.
- (e) The expected benefits to be derived from the funds expended from the California Advanced Services Fund in the prior year.
- (f) Details on the status of each project funded through the California Advanced Services Fund and whether the project has been completed or the expected completion date of the project.
- (g) Actual broadband adoption levels from funds expended from the California Advanced Services Fund in the prior year.
- (h) The cost per household for each project.
- (i) The number of formerly unserved households subscribing to broadband service in areas covered by projects funded by the California Advanced Services Fund.
- (j) The number of subscriptions resulting from the broadband adoption program funded by the California Advanced Services Fund.

(k) An update on the expenditures from the California Advanced Services Fund, broadband adoption levels, the progress in achieving the goals of the program, and an accounting of the remaining unserved households in each region of the state as of December 31 of the immediately preceding year.

(l) The amount of funds expended from the California Advanced Services Fund to match federal funds.

(m) Additional details on efforts to leverage non-California Advanced Services Fund moneys.

(n) The status of the California Advanced Services Fund balance and the projected amount to be collected in each year to fund approved projects.

***SEC. 10. Section 2881 of the Public Utilities Code is amended to read:***

**2881.** (a) The commission shall design and implement a program to provide a telecommunications device capable of serving the needs of individuals who are deaf or hard of hearing, together with a single party line, at no charge additional to the basic exchange rate, to a subscriber who is certified as an individual who is deaf or hard of hearing by a licensed physician and surgeon, audiologist, or a qualified state or federal agency, as determined by the commission, and to a subscriber that is an organization representing individuals who are deaf or hard of hearing, as determined and specified by the commission pursuant to subdivision (h). A licensed hearing aid dispenser may certify the need of an individual to participate in the program if that individual has been previously fitted with an amplified device by the dispenser and the dispenser has the individual's hearing records on file before certification. In addition, a physician assistant or nurse practitioner may certify the needs of an individual who has been diagnosed by a physician and surgeon as being deaf or hard of hearing to participate in the program after reviewing the medical records or copies of the medical records containing that diagnosis.

(b) The commission shall also design and implement a program to provide a dual-party relay system, using third-party intervention to connect individuals who are deaf or hard of hearing and offices of organizations representing individuals who are deaf or hard of hearing, as determined and specified by the commission pursuant to subdivision (h), with persons of normal hearing by way of intercommunications devices for individuals who are deaf or hard of hearing and the telephone system, making available reasonable access of all phases of public telephone service to telephone subscribers who are deaf or hard of hearing. In order to make a dual-party relay system that will meet the requirements of individuals who are deaf or hard of hearing available at a reasonable cost, the commission shall initiate an investigation, conduct public hearings to determine the most cost-effective method of providing dual-party relay service to the deaf or hard of hearing when using a telecommunications device, and solicit the advice, counsel, and physical assistance of statewide nonprofit consumer organizations of the deaf, during the development and implementation of the system. The commission shall apply for certification of this program under rules adopted by the Federal Communications Commission pursuant to Section 401 of the federal Americans with Disabilities Act of 1990 (Public Law 101-336).

(c) The commission shall also design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be disabled at no charge additional to the basic exchange rate. The certification, including a statement of visual or medical need for specialized telecommunications equipment, shall be provided by a licensed optometrist, physician and surgeon, physician assistant, or nurse practitioner, acting within the scope of practice of the applicable license, or by a qualified state or federal agency as determined by the commission. The commission shall, in this connection, study the feasibility of, and implement, if determined to be feasible, personal income criteria, in addition to the certification of disability, for determining a subscriber's eligibility under this subdivision.

(d) (1) The commission shall also design and implement a program to provide access to a speech-generating device to any subscriber who is certified as having a speech disability at no charge additional to the basic exchange rate. The certification shall be provided by a licensed physician, licensed speech-language pathologist, nurse practitioner, or qualified state or federal agency. The commission shall provide to a certified subscriber access to a speech-generating device that is all of the following:

(A) A telecommunications device or a device that includes a telecommunications component.

(B) Appropriate to meet the subscriber's needs for access to, and use of, the telephone network, based on the recommendation of a licensed speech-language pathologist.

(C) Consistent with the quality of speech-generating devices available for purchase in the state.

(2) The commission shall adopt rules to implement this subdivision and subdivision (e) by January 1, 2014.

(e) All of the following apply to any device or equipment described in this section that is classified as durable medical equipment under guidelines established by the United States Department of Health and Human Services:

(1) It is the intent of the Legislature that the commission be the provider of last resort and that eligible subscribers first obtain coverage from any available public or private insurance.

(2) The commission may require the subscriber to provide information about coverage for any or all of the cost of the device or equipment that is available from a public or private insurance, the cost to the subscriber of a deductible, copayment, or other relevant expense, and any related benefit cap information.

(3) The total cost of a device or equipment provided to a subscriber under this section shall not exceed the rate of reimbursement provided by Medi-Cal for that device or equipment.

(f) This section does not require the commission to provide training to a subscriber on the use of a speech-generating device.

(g) *(1) The commission shall ~~establish~~ administer a ~~rate recovery mechanism through a~~ surcharge ~~not to exceed one-half of 1 percent uniformly applied~~ collect revenues, subject to a subscriber's intrastate telephone service, other than one-way radio paging service and universal telephone service, both within a service area and between service areas, an annual appropriation of moneys by the Legislature,* to allow providers of the equipment and service specified in subdivisions (a) to (d), inclusive, to recover costs as they are incurred under this section. The surcharge shall be in effect until January 1, 2025. The commission shall require that the programs implemented under this section be identified on subscribers' bills, and shall establish a fund and require separate accounting for each of the programs implemented under this section.

*(2) The commission shall not collect a sum exceeding one hundred million dollars (\$100,000,000) per year by imposing the surcharge pursuant to paragraph (1).*

(h) The commission shall determine and specify those statewide organizations representing the deaf or hard of hearing that shall receive a telecommunications device pursuant to subdivision (a), or a dual-party relay system pursuant to subdivision (b), or both, and in which offices the equipment shall be installed in the case of an organization having more than one office.

(i) The commission may direct a telephone corporation subject to its jurisdiction to comply with its determinations and specifications pursuant to this section.

(j) The commission shall annually review the surcharge level and the balances in the funds established pursuant to subdivision (g). Until January 1, 2025, the commission may make, within the limits set by subdivision (g), necessary adjustments to the surcharge to ensure that the programs supported by the surcharge are adequately funded and that the fund balances are not excessive. A fund balance that is projected to exceed six months' worth of projected expenses at the end of the fiscal year is excessive.

(k) In order to continue to meet the access needs of individuals with functional limitations of hearing, vision, movement, manipulation, speech, and interpretation of information, the commission shall perform an ongoing assessment of, and if appropriate, expand the scope of, the program to allow for additional access capability consistent with evolving telecommunications technology.

(l) The commission shall structure the programs required by this section so that a charge imposed to promote the goals of universal service reasonably equals the value of the benefits of universal service to contributing entities and their subscribers.

**SEC. 12. SEC. 11.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SEC. 13. The Legislature finds and declares that Section 5 of this act, which amends Section 281 of the Public Utilities Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:~~

~~This act protects propriety business information from public disclosure to protect fair competition, while enabling a governmental agency to obtain that information for purposes of calculating an accurate surcharge to support the deployment of broadband infrastructure through the California Advanced Services Fund program.~~

~~SEC. 14.~~ **SEC. 12.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

To expedite the deployment of broadband infrastructure and internet service to unserved rural and urban communities and establishing 21st century infrastructure essential for economic competitiveness and quality of life.