

Amendments Mock-up for 2017-2018 AB-1665 (Eduardo Garcia (A) , Aguiar-Curry (A) , Bonta (A) , Dahle (A) , Gallagher (A) , Holden (A) , Low (A) , McCarty (A) , Santiago (A) , Mark Stone (A) , Wood (A))

*******Amendments are in BOLD*******

Mock-up based on Version Number 98 - Amended Assembly 5/2/17

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

SECTION 1.

This act shall be known, and may be cited, as the Internet for All Now Act.

SEC. 2.

The Legislature finds and declares all of the following:

(a) The availability of high-speed Internet access, referred to generically as “broadband” and including both wired and wireless technologies, is essential 21st century infrastructure for economic competitiveness and quality of life. Economic studies confirm that the use of broadband technologies increases economic productivity as a foundation for increased efficiency in organizational operations and enhanced profitability in business.

(b) Broadband infrastructure is also vital to the operation and management of other critical infrastructure, such as energy generation systems and the electrical grid, water supply systems, and public safety and emergency response networks. There is a need for world-class broadband infrastructure throughout California to support these major infrastructure investments, and thereby to protect lives, property, and the environment.

(c) It is the intent of the Legislature that California be a national leader and globally competitive in the deployment and adoption of broadband technology and to implement quality universal access for all residents.

(d) It is the policy of the State of California to encourage collaboration among stakeholders and to promote public-private partnerships to harness the expertise and strengths of all partners to serve the public interest.

SEC. 3.

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.

(b) (1) The goal of the program is, no later than December 31, 2022, 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 January 1, 2017. The commission shall be responsible for achieving the goals of the program.*

(2) ~~In approving infrastructure projects,~~ The commission shall ~~give priority to approve infrastructure~~ projects that provide last-mile broadband access to households that are unserved by an existing facilities-based broadband provider. 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.

~~(3) For purposes of this section, a household is “unserved” if no facilities based provider offers broadband service at speeds of at least 6 megabits per second (mbps) downstream and 1 megabits per second (mbps) upstream.~~

(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.

(3) The Broadband *Public Housing* Account.

(4) The Broadband *Adoption* Account.

(d) (1) *The commission shall transfer the moneys received* by the commission *from the surcharge imposed to fund the accounts to the* Controller for deposit in the California Advanced Services Fund. Moneys collected shall be deposited in the following amounts in the following accounts:

(A) *Three* hundred million dollars *(\$300,000,000)* into the Broadband Infrastructure Grant Account.

(B) *Ten* million dollars *(\$10,000,000)* into the Rural and Urban Regional Broadband Consortia Grant Account.

(C) *Twenty* million dollars *(\$20,000,000)* into the Broadband *Adoption* Account.

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

(3) The commission *may collect a* sum not to exceed *three* hundred *thirty* million dollars *(\$330,000,000)* for a sum total of moneys collected by imposing the surcharge described in paragraph (1). The commission may collect the sum beginning with the calendar year starting on January 1, 2018, and continuing through the 2022 calendar year, in an amount not to exceed *sixty-six* million dollars *(\$66,000,000)* per year, unless the commission determines that collecting a higher amount in any year will not result in an increase in the total amount of all surcharges collected from telephone customers that year.

~~(e)(1)~~ All moneys in the California Advanced Services Fund shall be available, upon appropriation by the Legislature, to the commission for the 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) (2) (A) The commission shall be responsible for achieving the goals of the program. The commission shall award grants from the Broadband Infrastructure Grant Account on a technology-~~

neutral basis, including both wireline and wireless technology. ~~based on the objective functionality needs for the customers to be served in any specified project application.~~

~~(2) The commission shall consult regional consortia, stakeholders, local government, existing facilities based providers, and consumers regarding 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, through the year 2022.~~

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

~~(4) (A) The commission shall annually offer an existing facilities based provider the opportunity to demonstrate that it will provide broadband access to a delineated unserved areas within a reasonable timeframe. The commission shall not approve funding for a project providing broadband access to a delineated unserved area if the existing facilities-based provider demonstrates to the commission that it will, within a reasonable timeframe, upgrade existing service.~~

~~(B) Any information submitted to the commission that includes the providers' plans for future broadband deployment, shall not be publically disclosed.~~

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

~~(D) If an existing facilities-based provider makes an upgrade pursuant to this subdivision with funding from the Connect America Fund program or similar public program funding broadband infrastructure, the "reasonable timeframe" described in paragraph (4) (A) shall be consistent with the upgrade deadlines associated with that program and with the construction deadlines applicable to projects funded by the Infrastructure Grant Account.~~

~~(E) For an existing facilities based provider that is willing to upgrade facilities pursuant to this subdivision, a "reasonable timeframe" described in paragraph (4) (A) shall be the timeframe that the commission would otherwise allow for project completion pursuant to this section.~~

~~(3.5) Projects eligible for grant awards shall meet both all of the following requirements:~~

~~(A) The project deploys infrastructure capable of providing access to speeds at a minimum of 10 megabits per second (mbps MPS) downstream and one MPS mbps upstream to unserved households in census blocks where no provider offers access at speeds of 6 mbps downstream and one MPS- mbps upstream.~~

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

~~(iii) The project is not receiving any federal funding, including funding from the Connect America Fund, for the of the infrastructure.~~

~~(C) The commission shall identify priority unserved and underserved areas and delineate the priority areas in the biennial reports prepared pursuant to Section 914.7.~~

~~(C) The commission shall consult regional consortia, stakeholders and consumers regarding priority 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.~~

(6) 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 provider. Any infrastructure built to connect a household with funds provided under this subsection shall become the property of and part of the network of the facilities-based broadband provider to which it is connected. Recipients of grants pursuant to this paragraph shall be subject to the same obligations as other grant recipients.

(x) 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 ~~or underserved~~ households, as defined in commission Decision 12-02-015, if the entity otherwise meets the eligibility requirements and complies with program requirements established by the commission. These requirements shall include all of the following:

(A) That projects under this paragraph provide last-mile broadband access to households that are unserved by an existing facilities-based broadband provider and only receive funding to provide broadband access to households that are unserved or underserved, as defined in commission Decision 12-02-015.

(B) That funding for a project providing broadband access to an underserved household shall not be approved until after any existing facilities-based provider has an opportunity to demonstrate to the commission that it will, within a reasonable timeframe, upgrade existing service. An existing facilities-based provider may, but is not required to, apply for funding under this section to make that upgrade.

(C) That 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.

(D) That a local governmental agency may be eligible for an infrastructure grant only if the infrastructure project is for an unserved household or business, the commission has conducted an open application process, and no other eligible entity applied.

(E) That the commission shall establish a service list of interested parties to be notified of any California Advanced Services Fund applications or amended applications. Any application and any amendment to an application for project funding shall be served to the service list and posted on the commission's web-site at least 30 days before publishing the corresponding draft resolution.

(10) A G-grants awarded pursuant to this subdivision may be used include funding for the following cost the following consistent with subdivision (f) (5) of this section:

(A) Costs directly related to the deployment of last-mile infrastructure. to provide access to households and middle-mile infrastructure necessary to facilitate access, consistent with clause (ii) of subparagraph (B) of paragraph (2).

(B) Costs incurred by grant recipients to lease for a period not to exceed five years, access to property or for Internet backhaul services for a period not to exceed five years. necessary for interconnection to households and reimbursement of expenses incurred by incumbent providers to accommodate connection with the grant recipients' facilities.

(C) Cost incurred by an existing provider to upgrade its existing facilities to provide for interconnection.

(11) A grant from the Infrastructure Grant Account may not include funding for costs of broadband infrastructure already funded by the Connect America Fund or similar public program that funds broadband infrastructure. This limitation on Infrastructure Grant Account funding does not apply to

federal high-cost support programs that support operations, including High Cost Loop Support (HCLS), Connect America Fund Broadband Loop Support (CAF-BLS), and funding under the Alternative Connect America Cost Model (A-CAM).

(12) The commission may award grants to fund all or a portion of the project. The commission shall determine on a case by case bases the level of funding to be provided for a project and shall consider factors that include, but are not limited to, location and accessibility of the area and 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 or similar federal public program that fund broadband infrastructure. This subparagraph shall not be interpreted to require an applicant to seek project funding from the Connect America Fund or other similar program.

(f 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, 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 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.

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

(h 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) 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 and the publically supported community is unserved.

(B) (i) In its review of applications received pursuant to subparagraph (A), the commission shall award grants only to unserved housing developments, *regardless of when the applicant filed its application.*

(ii) For purposes of this subparagraph, a housing development is unserved when at least one housing unit within the housing development is not offered broadband Internet service.

(C) Once all funds in the Public Housing Account have been awarded, a publicly supported community, otherwise eligible to submit an application to the Public Housing Account may submit an application for funding from the Broadband Infrastructure Grant Account.

(4) (A) Not more than five million dollars (\$5,000,000) 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) Once all funds for adoption in the Public Housing Account have been awarded, a publicly supported community, may apply for a grant from the Broadband Adoption Account pursuant to all requirements of the account.

(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*.

~~(i) (1) For purposes of this section, the following definitions apply:~~

~~(A) “Disadvantaged communities” means communities identified as disadvantaged communities pursuant to Section 39711 of the Health and Safety Code.~~

~~(B) “Low-income communities” means _____.~~

~~(2) (A) Moneys in the Broadband Adoption Account shall be available to the commission to award grants for digital literacy training programs and public education and outreach programs to increase broadband adoption by consumers. Payment pursuant to a grant shall be based on the actual verification of broadband adoption resulting from the program funded by the grant.~~

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

~~(3) Eligible applicants are schools, public libraries, nonprofit organizations, and community-based organizations with programs to increase broadband adoption by providing public education, outreach, or digital literacy training.~~

~~(4) The commission shall give preference to applications for programs in low-income and disadvantaged communities.~~

~~(5) The commission shall develop criteria for awarding grants and a process and methodology for verifying broadband adoption based on new subscriptions by June 30, 2018.~~

(i) (1) Moneys in the Broadband Adoption Account shall be available to the commission to award grants for digital literacy training programs and public education and outreach programs to increase broadband adoption by consumers in low income, disadvantaged communities, and senior communities, schools and public libraries.

(2) Eligible applicants are schools, public libraries, nonprofit organizations, and community-based organizations with programs to increase broadband adoption by providing public education, outreach, or digital literacy training.

(3) Payment for a grant for broadband adoption shall be based on the actual verification of broadband subscriptions resulting from the program funded by the grant.

(4) Payment for a grant for digital literacy programs shall be based on a participant’s verified completion of the program.

~~(5) For purposes of this section, the following definitions apply:~~

~~(A) “Disadvantaged communities” means communities identified as disadvantaged communities pursuant to Section 39711 of the Health and Safety Code.~~

~~(B) “Low-income communities” means _____.~~

~~(6) The commission shall give preference to applications for programs in low-income and disadvantaged communities.~~

~~(7) The commission shall develop criteria for awarding grants and a process and methodology for verifying broadband adoption based on new subscriptions by June 30, 2018. The commission shall be~~

prepared to accept applications for grants from the Broadband Adoption Account no later than July 1, 2018.

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

SEC. 4.

Section 912.2 of the Public Utilities Code is amended to read:

912.2.

(a) The commission shall conduct *an* interim financial *audit* and a final financial audit and *an* interim performance *audit* and a final performance audit of the implementation and effectiveness of the California Advanced Services Fund to ensure that funds have been expended in accordance with the approved terms of the grant awards and loan agreements pursuant to Section 281. The commission shall report its interim findings to the Legislature by April 1, 2020. The commission shall report its final findings to the Legislature by April 1, 2023. The reports shall also 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.

(b) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2027.

SEC. 5.

Section 914.7 of the Public Utilities Code is amended to read:

914.7.

(a) By April 1, 2019, and by April 1 of each *year thereafter, until April 1, 2023*, the commission shall provide a report to the Legislature that includes all of the following information:

(1) The remaining unserved areas in the state.

~~(1 2)~~ The amount of funds expended from the California Advanced Services Fund in the prior year.

~~(2 3)~~ The recipients of funds expended from the California Advanced Services Fund in the prior year.

~~(3 4)~~ The geographic regions of the state affected by funds expended from the California Advanced Services Fund in the prior year, including information by county.

(x) The expected benefits to be derived from the funds expended from the California Advanced Services Fund in the prior year.

(x) Details on the status of each project funded through the California Advanced Services Fund, whether the project has been completed, and, if applicable, the expected completion date of the project.

(x) Actual broadband adoption levels from the funds expended from the California Advanced Services Fund in the prior year.

(5) The cost per household for each project.

(6) The number of unserved households subscribing for broadband service.

(7) The number of subscriptions resulting from the broadband adoption program.

(4 8) An update on the expenditures from the California Advanced Services Fund and broadband adoption levels, and The progress in achieving the goals of the program and an accounting

of *the* remaining unserved **and underserved** households *in each region of the state as of December 31 of the immediately preceding year.*

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

(10) Additional details on effects to leverage non-California Advanced Services Fund funds.

(x) The status of the California Advanced Services Fund balance and the projected amount to be collected in each year through 2022 to fund approved projects.

(b) This section is repealed on January 1, 2024, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2024, deletes or extends that date.

SEC. 6.

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.