

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3363 _____
 _____ Of the printed Bill
 Page _____ Section _____ Lines _____
 _____ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Charles McCall _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3363

By: McCall

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to broadband; amending 17 O.S. 2021,
9 Sections 139.201, 139.202, and 139.203, which relate
10 to the Oklahoma Rural Broadband Expansion Act;
11 modifying name of act; modifying name of certain
12 council; providing for termination; requiring certain
13 actions prior to termination; decreasing size of
14 Council; modifying qualifications for certain council
15 appointments; eliminating obsolete language;
16 providing for advisory oversight; eliminating certain
17 study, mapping, data collection, reporting, and
18 incentive awards requirements; eliminating certain
19 support required of the Oklahoma Department of
20 Commerce; requiring certain support from the State
21 Broadband Office; requiring certain data be provided
22 by certain entities; updating references; defining
23 terms; creating the Broadband Governing Board for a
24 certain period; providing for termination; requiring
certain actions prior to termination; providing
oversight responsibilities, powers, and duties;
establishing membership; establishing appointment
authority and procedure; establishing
disqualifications as to membership; establishing
length of term; authorizing removal and replacement
without cause; establishing organization of the
Board; requiring certain organizational meeting and
certain actions related to filling Executive Director
position within certain period; authorizing
replacement appointments under certain conditions;
making Board subject to Oklahoma Open Meeting Act and
Oklahoma Open Records Act; providing for the
employment of an Executive Director; authorizing the
promulgation of rules; requiring certain Board
oversight; creating the Oklahoma Broadband Office for

1 a certain period; providing for termination;
2 requiring certain actions prior to termination;
3 requiring administrative assistance by the Office of
4 Management and Enterprise Services and providing
5 process; authorizing certain charges under certain
6 conditions; subjecting Office to the governance of
7 the Broadband Governing Board; subjecting Office to
8 the advice of the Broadband Expansion Council;
9 establishing powers and duties of the Executive
10 Director; providing for the hiring and management of
11 office staff; requiring regular reporting to certain
12 entities; requiring certain studies, mapping, data
13 collection, and reporting requirements; requiring
14 certain mapping system; authorizing the purchase of
15 certain data; authorizing the establishment of
16 certain policies as needed; authorizing protest
17 procedure within certain time period; requiring
18 certain features; providing for creation of a
19 Statewide Broadband Plan including certain
20 requirements; requiring certain procedures related to
21 the Capital Projects Fund Grant Report; providing
22 deadlines; requiring maintenance of the report;
23 requiring cooperation with certain entities;
24 authorizing the administration of funding through
grant opportunities, incentives, and awards;
requiring the development of broadband award
guidelines and procedures; requiring submission of
guidelines to certain officials; requiring guidelines
consider certain factors; requiring the submission of
certain information to the Office upon request;
requiring certain information be kept confidential;
authorizing the transfer of certain broadband
programs, personnel, and assets within a certain
period of time; providing process for transfer;
providing exceptions; prohibiting the expenditure of
certain funding without Office authorization;
requiring the establishment of the State Broadband
Grant Program; providing criteria; limiting award
eligibility; requiring acquisition of certain data;
requiring certain repayment under certain conditions;
defining term; creating the State Broadband Grant
Program Revolving Fund; establishing nature of fund;
declaring funds appropriated; providing budgetary
requirements; providing certain expenditure
authority; repealing 17 O.S. 2021, Section 139.204,
which relates to the State Broadband Deployment Grant
Program and Fund; providing for codification;

1 providing for recodification; and declaring an
2 emergency.

3 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

4 SECTION 1. AMENDATORY 17 O.S. 2021, Section 139.201, is
5 amended to read as follows:

6 Section 139.201 This act shall be known and may be cited as the
7 "Oklahoma ~~Rural~~ Broadband Expansion Act".

8 SECTION 2. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 9201 of Title 74, unless there
10 is created a duplication in numbering, reads as follows:

11 As used in this act:

- 12 1. "Board" means the Broadband Governing Board;
- 13 2. "Council" means the Broadband Expansion Council;
- 14 3. "Director" means the Executive Director of the Oklahoma
15 Broadband Office;
- 16 4. "FCC" means the Federal Communications Commission;
- 17 5. "Joint Committee" means the Legislature's Joint Committee on
18 Pandemic Relief Funding, created by the Legislature to give
19 legislative oversight to the dispersal of the American Rescue Plan
20 Act's State and Local Fiscal Recovery Fund, Capital Projects Fund,
21 and any future federal recovery funds as identified by the
22 Legislature;

1 6. "Map" means the statewide map showing broadband access,
2 adoption, speed capabilities, and all other information the Office
3 deems necessary;

4 7. "Office" means the Oklahoma Broadband Office;

5 8. "Plan" means the Statewide Broadband Plan;

6 9. "Program" means the State Broadband Grant Program; and

7 10. "Revolving fund" means the State Broadband Grant Program
8 Revolving Fund.

9 SECTION 3. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 9202 of Title 74, unless there
11 is created a duplication in numbering, reads as follows:

12 A. 1. There is hereby created until June 30, 2028, the
13 Broadband Governing Board. The Board shall oversee the Oklahoma
14 Broadband Office. Effective June 30, 2028, the Board shall
15 terminate. The Board shall utilize the year prior to the
16 termination date for the purpose of ceasing the Board's affairs.

17 2. The Board shall receive regular reports from the Office's
18 Executive Director and the Executive Director's staff on the status
19 of the Statewide Broadband Plan, the State Broadband Grant Program,
20 other developed grant programs, and other projects the Office is
21 undertaking, during regularly scheduled meetings.

22 B. The Board shall consist of nine (9) members. Two members
23 shall be appointed by the Speaker of the Oklahoma House of
24 Representatives, two members shall be appointed by the President Pro

1 Tempore of the Oklahoma State Senate, three members shall be
2 appointed by the Governor, one member shall be the Lieutenant
3 Governor, and one member shall be the State Treasurer. Except as
4 provided in subsection C of this section, appointees shall serve
5 until June 30, 2028. No individual with an official affiliation,
6 paid or unpaid, with any potential recipient of a grant administered
7 under the provisions of this act, shall be appointed to or serve on
8 the Board.

9 C. Each appointee shall serve at the pleasure of his or her
10 appointing authority and may be removed or replaced without cause.

11 D. 1. The Board shall hold an organizational meeting not later
12 than thirty (30) days from the effective date of this act. At such
13 meeting, the Board shall adopt qualifications and a salary range for
14 an Executive Director for the Oklahoma Broadband Office based on the
15 recommendations of the Human Capital Management Division of the
16 Office of Management and Enterprise Services, and provide for the
17 process of filling the position in a reasonable time in accordance
18 with the laws of this state.

19 2. The Board shall hold meetings as necessary at a place and
20 time to be fixed by the Board. The Board shall elect, at its first
21 meeting, one of its members to serve as chair and another of its
22 members to serve as vice-chair. At the first meeting in each
23 calendar year thereafter, the chair and vice-chair for the ensuing
24 year shall be elected. Special meetings may be called by the chair

1 or by five members of the Board by delivery of written notice to
2 each member of the Board. A majority of members serving on the
3 Board shall constitute a quorum of the Board.

4 E. If a Board member is unable to fulfill his or her term for
5 any reason, the appointing authority of such member may appoint a
6 replacement to complete the remainder of the term.

7 F. The Board shall be subject to the Oklahoma Open Meeting Act
8 and the Oklahoma Open Records Act.

9 G. The Board shall employ, evaluate, and maintain an Executive
10 Director of the Office who shall serve at the pleasure of the Board
11 and may be removed or replaced without cause.

12 H. The Board shall promulgate rules as necessary to implement
13 the provisions of the Oklahoma Broadband Expansion Act and for the
14 governance and operation of the Oklahoma Broadband Office.

15 I. The Board shall approve or disapprove all grant and
16 incentive programs created by the Office under the provisions of
17 this act or under law.

18 J. The Board shall oversee the annual budget for the Office,
19 which shall be funded from the allowed administrative expenses of
20 applicable federal programs and funds available for expenditure from
21 the State Broadband Grant Program Revolving Fund created pursuant to
22 Section 10 of this act.

23 K. The Board shall approve the Statewide Broadband Plan and
24 updates to the Plan as necessary.

1 SECTION 4. AMENDATORY 17 O.S. 2021, Section 139.202, is
2 amended to read as follows:

3 Section 139.202 A. There is hereby created, until June 30,
4 2028, the ~~Rural~~ Broadband Expansion Council. Effective June 30,
5 2028, the Council shall terminate. The Council shall utilize the
6 year prior to the termination date for the purpose of ceasing the
7 Council's affairs.

8 B. The Council shall consist of ~~sixteen (16)~~ fourteen (14)
9 persons to be selected as follows:

10 1. Three members shall be appointed by the Governor, one of
11 whom shall be ~~a government official who has knowledge of and~~
12 ~~experience with the technology assets and operations of the Oklahoma~~
13 ~~Department of Transportation, OneNet and the Oklahoma Office of~~
14 ~~Management and Enterprise Services and who is not and has not been~~
15 ~~previously employed by OneNet~~ the individual serving as the
16 Executive Director of the Oklahoma Broadband Office, one of whom
17 shall be a current or past mayor of a municipality having a
18 population of less than thirty-five thousand (35,000) persons
19 according to the latest Federal Decennial Census or most recent
20 population estimate and which is not part of either the Oklahoma
21 City or Tulsa Metropolitan Statistical ~~Area~~ Areas, and one of whom
22 shall be a ~~representative of a wireless telecommunications provider~~
23 ~~with operations in Oklahoma and at least twenty-four other states~~

24

1 resident of this state and a wireless Internet service provider
2 (WISP);

3 2. Five members shall be appointed by the Speaker of the
4 Oklahoma House of Representatives, one of whom shall represent the
5 interests of rural Internet service providers, one of whom shall be
6 a private sector technology professional with expertise in broadband
7 connectivity, access, price and related economic factors, one of
8 whom shall represent the interests of rural health care, one of whom
9 shall be a representative of a wireless telecommunications provider
10 not affiliated with an incumbent local exchange carrier in Oklahoma
11 and one who shall be a ~~resident of this state and a wireless~~
12 ~~Internet service provider (WISP)~~ representative of a wireless
13 telecommunications provider with operations in Oklahoma and at least
14 twenty-four other states;

15 3. Five members shall be appointed by the President Pro Tempore
16 of the Oklahoma State Senate, one of whom shall be a professional
17 having academic expertise in large-scale information technology
18 infrastructure with emphasis on rural broadband access, one of whom
19 shall represent the interests of rural business enterprises, one of
20 whom shall be a citizen from a community of less than fifty thousand
21 (50,000) persons which is not part of either the Oklahoma City or
22 Tulsa Metropolitan Statistical Areas, one of whom shall be a rural
23 electric cooperative representative and one who shall be an Oklahoma
24 resident and Tribal Leader of a tribe recognized in this state; and

1 4. ~~One nonvoting member of the Oklahoma House of~~
2 ~~Representatives to be appointed by the Speaker;~~

3 5. ~~One nonvoting member of the Oklahoma State Senate to be~~
4 ~~appointed by the President Pro Tempore; and~~

5 6. One nonvoting member to be selected by the Oklahoma
6 Corporation Commission who has expertise in administration of the
7 Universal Service Fund, but who is not an elected member of the
8 Commission.

9 C. ~~The Council shall hold an organizational meeting not later~~
10 ~~than sixty (60) days from May 22, 2020, and shall select from its~~
11 ~~membership a chair and vice-chair or co-chairs. The chair or co-~~
12 ~~chair of the Council shall be a person who is not a government~~
13 ~~employee or public official, unless the person or persons are~~
14 ~~legislators.~~

15 D. A quorum of the membership of the Council shall be necessary
16 in order to take any final action pursuant to the provisions of this
17 act.

18 E. D. The Council shall be subject to the Oklahoma Open Meeting
19 Act and the Oklahoma Open Records Act.

20 F. ~~The Rural Broadband Expansion Council shall conduct a study~~
21 ~~of rural broadband access in the state and shall divide the state~~
22 ~~into separate geographic areas based on the information it obtains~~
23 ~~regarding existing capability for persons and businesses to access~~
24 ~~broadband telecommunication services, the cost for obtaining the~~

1 ~~services from existing service providers, the estimated costs for~~
2 ~~improving rural broadband access, the likelihood of changes in rural~~
3 ~~broadband access in the near and intermediate future based on~~
4 ~~available information regarding private or public sector plans or~~
5 ~~programs to create or enhance broadband access in rural areas, the~~
6 ~~need for change in state or local law or policy that impacts the~~
7 ~~ability for persons or business entities in rural areas to access~~
8 ~~broadband services at a reasonable price and such other information~~
9 ~~as the Council may determine to be relevant in order to establish~~
10 ~~the geographic areas.~~

11 ~~G. The Council shall incorporate the information as described~~
12 ~~in subsection F of this section into a mapping system that depicts~~
13 ~~resources, broadband coverage, connectivity speeds and such other~~
14 ~~features as the Council deems relevant.~~

15 ~~H. The Council shall undertake a study of incentives or~~
16 ~~programs that would have the effect of improving existing rural~~
17 ~~broadband access and establishing broadband access to areas which~~
18 ~~currently do not have such access. The incentives or programs may~~
19 ~~include federal funds, tribal funds or resources, donated funds or~~
20 ~~funding available from foundations, endowments or similar sources,~~
21 ~~state or local tax incentives, state or local financing incentives~~
22 ~~or options or federal, tribal, state or local regulatory policies~~
23 ~~that would be conducive to improving existing broadband access or~~
24 ~~establishing such access where it does not currently exist.~~

1 ~~I. The Council shall have the right to obtain information from~~
2 ~~the Oklahoma Corporation Commission or other state agencies, to the~~
3 ~~extent information requested is not required to be kept confidential~~
4 ~~pursuant to some other requirement, regarding any of the matters as~~
5 ~~specified in this section relevant to the Council's duties.~~

6 ~~J. The Council shall have the right to obtain information from~~
7 ~~counties, cities, towns, school districts, career technology~~
8 ~~districts, public trusts, or other entities or instrumentalities of~~
9 ~~local government, to the extent information requested is not~~
10 ~~required to be kept confidential pursuant to some other requirement,~~
11 ~~regarding any of the matters as specified in this section relevant~~
12 ~~to the Council's duties.~~

13 ~~K. The Council shall utilize the~~

14 E. The Council shall serve as the advisory board to the
15 Oklahoma Broadband Office.

16 F. The Council shall advise the Office in developing and
17 continually monitoring the Office's Plan related to:

18 1. Identifying geographic areas it establishes pursuant to the
19 Oklahoma Rural Broadband Expansion Act in order to develop its
20 recommendations regarding the implementation of to be utilized in
21 developing the Office's policies that are conducive to for
22 establishing or improving rural broadband access in the state.
23 pursuant to the Oklahoma Broadband Expansion Act;
24

1 ~~L. The Council shall focus on the~~ 2. Assessing the financial
2 viability of broadband service providers so that a broadband network
3 is adequately supported in its operations, that needed repairs and
4 upgrades can be undertaken on a timely basis and that the goal of
5 having a quality long-term broadband service delivery system ~~for~~
6 ~~rural areas across the state~~ is achieved and maintained;

7 ~~M. The Council shall give emphasis to maintaining~~ 3.
8 Maintaining the viability of the Oklahoma Universal Service Fund and
9 give consideration to whether similar universal funds should be
10 implemented in order to facilitate broadband expansion and
11 operational costs for underserved areas; and

12 ~~N. The Council shall give emphasis to the prevention of~~ 4.
13 Preventing duplication of facilities and investment when ~~it~~ the
14 Office makes ~~policy grant~~ recommendations. ~~The~~ With the input of
15 the Council, the Oklahoma Broadband Office shall establish objective
16 standards in order to determine whether the construction of ~~rural~~
17 broadband access constitutes duplication of facilities and
18 investment and also the role of any recommended incentives that
19 would benefit entities in the private sector so that public
20 resources are effectively utilized and that duplication of efforts
21 is avoided.

22 ~~O. The Oklahoma Department of Commerce shall create a dedicated~~
23 ~~webpage or website in order to allow public access to the actions~~
24 ~~and recommendations of the Council. The webpage or website shall~~

1 ~~contain the mapping system required by subsection G of this section~~
2 ~~and its related information.~~

3 ~~P. The Oklahoma Department of Commerce shall provide~~
4 ~~administrative support to the Council and shall utilize the Digital~~
5 ~~Transformation Program Revolving Fund for expenses related to such~~
6 ~~administrative support as provided by Section 36 of Title 62 of the~~
7 ~~Oklahoma Statutes.~~

8 ~~Q. The Rural Broadband Expansion Council shall submit an annual~~
9 ~~report, not later than January 31, summarizing discussions,~~
10 ~~testimony, analysis, information or other actions and significant~~
11 ~~events during the preceding calendar year and containing the~~
12 ~~recommendations, if any, by the Council for legislation, action by~~
13 ~~executive branch agencies or other actions in furtherance of the~~
14 ~~mission and duties of the Council. The report shall be submitted to~~
15 ~~the Governor, the Speaker of the Oklahoma House of Representatives~~
16 ~~and the President Pro Tempore of the Oklahoma State Senate.~~

17 ~~R. On or before October 31, 2021, the Council shall develop a~~
18 ~~set of broadband incentive award guidelines for recommendation to~~
19 ~~the State Legislature. The Council shall submit a copy of the~~
20 ~~guidelines to the Speaker of the Oklahoma House of Representatives,~~
21 ~~the President Pro Tempore of the Oklahoma State Senate, and to the~~
22 ~~chairs of the appropriate legislative committees. The guidelines~~
23 ~~shall:~~

24

1 ~~1. Consider a weighted approach for awarding incentives based~~
2 ~~upon the following:~~

- 3 ~~a. the area's need for services, including, but not~~
4 ~~limited to, whether the area is underserved, unserved,~~
5 ~~rural or urban,~~
- 6 ~~b. whether there are existing broadband assets in the~~
7 ~~area, based on the statewide map,~~
- 8 ~~c. whether existing federal, state, local, tribal or~~
9 ~~private resources have been allocated to broadband~~
10 ~~services in the area,~~
- 11 ~~d. a preference for federal, state, local, tribal or~~
12 ~~private partnerships, and~~
- 13 ~~e. the capacity of the provider to maintain assets for an~~
14 ~~extended period of time; and~~

15 ~~2. Recommend any necessary controls including, but not limited~~
16 ~~to, capping the dollar amount of awards, allowing for an auditing~~
17 ~~process, and a process that allows for award clawbacks. These~~
18 ~~controls shall be in place to ensure the maximum efficiency of the~~
19 ~~incentive award and to protect against waste, fraud or abuse.~~

20 G. The Council shall receive administrative support from the
21 Oklahoma Broadband Office.

22 SECTION 5. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 9204 of Title 74, unless there
24 is created a duplication in numbering, reads as follows:

1 A. There is hereby created until June 30, 2028, the Oklahoma
2 Broadband Office, to serve as the state's sole administrator of the
3 functions, powers, and duties assigned to the Office in this act or
4 under law. Effective June 30, 2028, the Office shall terminate and
5 all personnel positions shall be abolished. The Office shall
6 utilize the year prior to the termination date for the purpose of
7 ceasing the Office's affairs.

8 B. The Office shall receive administrative assistance from the
9 Office of Management and Enterprise Services (OMES), which shall
10 provide through existing OMES resources, administrative assistance
11 upon request in writing or electronic correspondence from the
12 Office's Executive Director, within a reasonable time to allow the
13 performance of the Office's duties or respond in writing within ten
14 (10) days of the request providing reasons why the request cannot be
15 fulfilled. If the request cannot be fulfilled utilizing existing
16 resources, OMES may charge the Office for the actual cost to fulfill
17 the request.

18 C. The Office shall be governed by the Broadband Governing
19 Board, created pursuant to Section 3 of this act.

20 D. The Office shall be advised by the Broadband Expansion
21 Council, created pursuant to Section 4 of this act.

22 E. The Office shall have an Executive Director who shall
23 oversee the operations of the Office including, but not limited to:
24

- 1 1. Overseeing the creation, maintenance, and completion of the
2 Statewide Broadband Plan;
- 3 2. Communicating the state's progress in achieving the goals
4 and implementation of the Statewide Broadband Plan;
- 5 3. The creation, housing, and updating of a statewide broadband
6 services map;
- 7 4. Overseeing of grant applications and awards for connectivity
8 and affordability projects;
- 9 5. Making recommendations to the Board regarding procedural and
10 administrative rules for the Office; and
- 11 6. Employment and management of Office staff subject to the
12 limitations and requirements of this act and subject to the
13 limitations and requirements of the Broadband Governing Board.

14 F. The Executive Director shall regularly report to the Council
15 and the Board and shall submit an annual report to the Office of the
16 Speaker of the Oklahoma House of Representatives and the Office of
17 the President Pro Tempore of the Oklahoma State Senate.

18 SECTION 6. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 9205 of Title 74, unless there
20 is created a duplication in numbering, reads as follows:

21 A. The Oklahoma Broadband Office shall:

- 22 1. Conduct a study of and continually monitor broadband access
23 in the state to assess:

24

- a. existing capabilities to access broadband telecommunication services,
- b. the costs of obtaining broadband services from existing providers,
- c. the estimated cost to improve broadband access, and
- d. the likelihood of changes in broadband access in the near and intermediate future based on available information regarding public and private programs to enhance access and adoption; and

2. Maintain, update, and execute the Statewide Broadband Plan as necessary.

B. The Office shall incorporate the information as described in subsection A of this section into a mapping system that depicts resources, broadband coverage, connectivity speeds, and other such features as the Office deems relevant. The Office may also purchase data sets it deems necessary to complete such mapping system.

C. The Office shall establish policies and regulations as may be necessary to implement the provisions of this act.

D. The Office shall establish policy as needed to implement a process whereby impacted parties may challenge or protest data and information published on the Office's mapping system. The process shall include, but not be limited to, features that:

1. Are heard and ruled on at the Office level;

1 2. Provide for a ruling by the Office within sixty (60) days of
2 the submitted challenge or protest; and

3 3. Upon successful protest action, result in a timely
4 correction of the map.

5 E. The Office shall perform and maintain a study of existing
6 grants, incentives, and programs that may improve physical access to
7 broadband along with adoption of broadband technologies. The
8 grants, incentives, and programs may include federal funds, state
9 funds or resources, tribal funds or resources, donated funds, or
10 funding available from foundations, endowments or similar resources,
11 state or local tax incentives, state or local financing incentives
12 or options, or federal, tribal, state or local regulatory policies
13 that would be conducive to improving existing broadband access or
14 establishing access where it does not currently exist. The Office
15 shall regularly report on the currently available grants,
16 incentives, and programs and how best to utilize each.

17 F. The Office shall create, and update no less than biannually,
18 a Statewide Broadband Plan. The Plan shall detail what areas are
19 served, underserved, or unserved according to the prevailing
20 definitions of the FCC, and how best to improve the infrastructure
21 and connectivity in underserved and unserved areas. The Plan shall
22 include, but shall not be limited to, detailing a pathway for
23 ninety-five percent (95%) of the state's population to be adequately
24 served by June 30, 2028.

1 G. The Office shall create the Capital Projects Fund Grant
2 Report or provide the necessary information to the state entity
3 drafting the Report. The Report shall be submitted to the
4 Department of the Treasury no later than September 24, 2022. The
5 Office shall maintain the Report and submit any and all additional
6 information as required. The Office shall work with the Joint
7 Committee to ensure all approved broadband projects utilizing funds
8 from the Capital Projects Fund follow the correct reporting
9 requirements based on Department of Treasury guidance.

10 H. Additionally, the Office is authorized to seek, apply for,
11 and administer funding through grant opportunities. The Office is
12 also authorized to administer grant funding awards to recipients and
13 subrecipients.

14 I. On or before October 31, 2022, the Office, with the advice
15 of the Council, shall develop a set of broadband grants or incentive
16 awards guidelines to be approved by the Board. The grants and
17 incentive awards shall be for unserved and underserved areas. The
18 Office shall submit a copy of the guidelines to the Office of the
19 Speaker of the Oklahoma House of Representatives, the Office of the
20 President Pro Tempore of the Oklahoma State Senate, and to the
21 offices of the chairs of the appropriate legislative committees.
22 The guidelines shall:

23 1. Consider a weighted approach for awards based upon the
24 following:

- a. the area's need for services, including, but not limited to, whether the area is underserved or unserved,
- b. whether there are existing broadband assets in the area, based on the statewide map,
- c. whether existing federal, state, local, tribal, or private resources have been allocated to broadband services in the area,
- d. a preference for federal, state, local, tribal, or private partnerships, and
- e. the capacity of the provider to maintain assets for an extended period of time;

2. Recommend any necessary controls including, but not limited to, capping the dollar amount of awards, allowing for an auditing process, and a process that allows for award clawbacks. These controls shall be in place to ensure the maximum efficiency of the incentive award and to protect against waste, fraud, or abuse; and

3. Include annual reporting requirements of award recipients to assess effectiveness of such incentives which, shall include, but not be limited to, changes in coverage resulting from implementing awarded grants and incentives.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9206 of Title 74, unless there is created a duplication in numbering, reads as follows:

1 A. State agencies, counties, cities, towns, school districts,
2 career technology districts, institutions of higher education,
3 public trusts, other entities or instrumentalities of local
4 government, and Internet service providers shall, at the request of
5 the Oklahoma Broadband Office, provide information to the Office
6 regarding any matters as specified in this act relevant to the
7 Office's duties.

8 B. The Office shall maintain confidentiality as required by law
9 for all information provided under the provisions of this section.

10 SECTION 8. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 9207 of Title 74, unless there
12 is created a duplication in numbering, reads as follows:

13 A. By December 31, 2022, the Executive Director of the Oklahoma
14 Broadband Office shall identify all programs, personnel, and assets
15 within state government that are duplicative or complementary to the
16 mission of the Office and of such recommend which programs,
17 personnel, and assets the Executive Director identifies as needing
18 to be transferred to the Office, except as provided in subsection C
19 of this section.

20 B. Upon the receipt of the recommendation provided for in
21 subsection A of this section, the Director of the Office of
22 Management and Enterprise Services is authorized to transfer such
23 programs, personnel, and assets to the Office.

24

1 C. The following shall be exempt from the provisions of
2 subsections A and B of this section:

3 1. Those assets or personnel associated with the regulation of
4 broadband and Internet connectivity at the Oklahoma Corporation
5 Commission;

6 2. Those assets or personnel associated with the Oklahoma
7 Universal Service Fund located at the Corporation Commission; and

8 3. Assets owned by the Oklahoma Department of Transportation
9 and the staff required to operate said assets.

10 SECTION 9. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 9208 of Title 74, unless there
12 is created a duplication in numbering, reads as follows:

13 No funds received by the State Treasury dedicated to broadband
14 through the Infrastructure Investment and Jobs Act of 2021, Public
15 Law 117-58, by earlier federal legislation, by state appropriation,
16 or any subsequent federal funding dedicated to broadband shall be
17 expended by the state, except as authorized by the Oklahoma
18 Broadband Office.

19 SECTION 10. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 9209 of Title 74, unless there
21 is created a duplication in numbering, reads as follows:

22 A. The Office, with the participation and advice of the
23 Broadband Expansion Council and approval from the Board, shall
24 establish the State Broadband Grant Program. The Program shall

1 include development of competitive grants to be awarded to
2 applicants seeking to expand access to broadband Internet services
3 in this state, focusing on areas considered unserved and underserved
4 by the FCC. The Office, Council, and Board shall examine best
5 practices in other states to facilitate the framework of the
6 Program. The Office shall administer the Program.

7 B. No grants shall be developed or awarded under the provisions
8 of this program that would duplicate existing broadband Internet
9 services in this state.

10 C. In the administration of the grant program authorized by
11 this section, the Office shall secure service testing data to ensure
12 grant recipients provide the service or services proposed by such
13 recipients when applying for such grants.

14 D. All grant awards authorized pursuant to the provisions of
15 this section shall include a claw-back provision. For purposes of
16 this subsection a "claw-back provision" shall mean a condition
17 precedent to participate in the program whereby a grant recipient
18 formally agrees to reimburse the program all or part of a grant
19 award upon the failure of the recipient to fulfill contract terms
20 included in the grant award.

21 E. There is hereby created in the State Treasury a revolving
22 fund for the Office to be designated the "State Broadband Grant
23 Program Revolving Fund". The revolving fund shall be a continuing
24 fund, not subject to fiscal year limitations, and shall consist of

1 all monies designated for deposit to said fund. All monies accruing
2 to the credit of said revolving fund are hereby appropriated and may
3 be budgeted and expended by the Office for purposes of awarding
4 grants by and through the Office, pursuant to subsection A of this
5 section and for the operating expenses of the Office.

6 SECTION 11. AMENDATORY 17 O.S. 2021, Section 139.203, is
7 amended to read as follows:

8 Section 139.203 A. On or before October 31, ~~2021~~ 2022, and
9 annually thereafter, in accordance with the FCC Data Collection and
10 Methodology, private broadband service providers operating in this
11 state and satellite-based broadband private providers that have been
12 designated as an eligible telecommunications carrier pursuant to 47
13 U.S.C., Section 214(e) (6) for any portion of Oklahoma, hereinafter
14 referred to as "private providers", shall submit to the ~~Oklahoma~~
15 ~~Department of Commerce and the Rural Broadband Expansion Council~~
16 Oklahoma Broadband Office the broadband network area coverage map
17 data the private providers are required to submit to the ~~Federal~~
18 ~~Communications Commission~~ FCC pursuant to the federal Broadband
19 Deployment Accuracy and Technological Availability Act, 47 U.S.C.,
20 Section 641 et seq. The map data shall be updated annually through
21 a supplemental submission by the private providers that reflects
22 changes in area coverage from the preceding year, including updates
23 that are the result of incentives and grants created, administered,
24 or awarded by the Office. The ~~Department~~ Office is authorized to

1 promulgate rules for the collection of the broadband network area
2 coverage map reports from the private providers.

3 B. On or before October 31 of each year, OneNet, the Office of
4 Management and Enterprise Services, the Oklahoma Corporation
5 Commission, and the Oklahoma Department of Transportation,
6 hereinafter referred to as "public entities", shall submit to the
7 ~~Oklahoma Department of Commerce Office~~ and the Rural Broadband
8 Expansion Council broadband network area coverage map data of all
9 assets and network coverage in the format requested by the ~~Oklahoma~~
10 ~~Department of Commerce and Council Office~~.

11 C. Private providers and public entities shall disclose to the
12 ~~Oklahoma Department of Commerce and the Rural Broadband Expansion~~
13 ~~Council Office~~ the properties they serve and the maximum advertised
14 download and upload speeds at which they provide any Internet
15 services to those properties, ~~and shall be afforded by the Oklahoma~~
16 ~~Department of Commerce and the Council a process to petition for~~
17 ~~correction of potential inaccuracies in the map.~~

18 D. The reports and information required to be disclosed
19 pursuant to this section by private providers shall remain
20 confidential pursuant to Section 24A.10 of Title 51 of the Oklahoma
21 Statutes. The ~~Council Office~~ shall determine the required
22 submission format of the data submitted under the provisions of this
23 act. ~~In no instance shall private providers be required to submit~~
24 ~~any data, in substantive content or form or schedule, beyond or in~~

1 ~~advance of the data described in subsection A of this section, or~~
2 ~~any data containing customer information, such as names, addresses~~
3 ~~or account numbers. The Department shall use a third party to~~
4 ~~collect the data submitted by private providers under the provisions~~
5 ~~of this act. The third party shall deliver data to the Department~~
6 ~~following a white label process to remove information identifying~~
7 ~~specific providers.~~

8 E. On or before December 1 of each year, the Department and the
9 ~~Council Office~~ shall update the statewide broadband services map
10 required by subsection ~~G E~~ of Section ~~139.202 of Title 17 of the~~
11 ~~Oklahoma Statutes~~ 5 of this act using the data collected under the
12 provisions of this act in a manner that identifies the assets and
13 service areas of the public entities while displaying anonymized
14 information, without reference to any specific private provider, of
15 the assets and service areas of private providers.

16 ~~F. After the FCC completes the national Broadband Serviceable~~
17 ~~Location Fabric and accompanying National Broadband Availability~~
18 ~~Map, the Rural Broadband Expansion Council shall annually evaluate~~
19 ~~whether the State of Oklahoma needs to continue producing an~~
20 ~~annually updated statewide broadband map in accordance with the~~
21 ~~provisions of this section.~~

22 SECTION 12. RECODIFICATION 17 O.S. 2021, Section
23 139.201, as amended by Section 1 of this act, shall be recodified as
24

1 Section 9200 of Title 74 of the Oklahoma Statutes, unless there is
2 created a duplication in numbering.

3 SECTION 13. RECODIFICATION 17 O.S. 2021, Section
4 139.202, as amended by Section 4 of this act, shall be recodified as
5 Section 9203 of Title 74 of the Oklahoma Statutes, unless there is
6 created a duplication in numbering.

7 SECTION 14. RECODIFICATION 17 O.S. 2021, Section
8 139.203, as amended by Section 11 of this act, shall be recodified
9 as Section 9210 of Title 74 of the Oklahoma Statutes, unless there
10 is created a duplication in numbering.

11 SECTION 15. REPEALER 17 O.S. 2021, Section 139.204, is
12 hereby repealed.

13 SECTION 16. It being immediately necessary for the preservation
14 of the public peace, health or safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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