

1 **SENATE FLOOR VERSION**

2 April 13, 2022

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 3363

6 By: McCall, Boles, and Phillips
7 of the House

8 and

9 Treat of the Senate

10 [broadband - Broadband Governing Board - oversight
11 of Oklahoma Broadband Office - appointment of persons
12 with certain affiliation - compensation and
13 qualifications for Executive Director - oversight of
14 budget - Broadband Expansion Council - fully executed
15 duties and responsibilities - State Broadband Grant
16 Program Revolving Fund - recodification - repealer -
17 codification -

18 **emergency]**

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

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

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

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

As used in this act:

1. "Board" means the Broadband Governing Board;
2. "Council" means the Broadband Expansion Council;

1 3. "Director" means the Executive Director of the Oklahoma
2 Broadband Office;

3 4. "FCC" means the Federal Communications Commission;

4 5. "Joint Committee" means the Legislature's Joint Committee on
5 Pandemic Relief Funding, created by the Legislature to give
6 legislative oversight to the disbursing of the American Rescue Plan
7 Act's State and Local Fiscal Recovery Fund, Capital Projects Fund,
8 and any future federal recovery funds as identified by the
9 Legislature;

10 6. "Map" means the statewide map showing broadband access,
11 adoption, speed capabilities, and all other information the Office
12 deems necessary;

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

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

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

16 10. "Revolving fund" means the State Broadband Grant Program
17 Revolving Fund.

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

21 A. 1. There is hereby created until June 30, 2028, the
22 Broadband Governing Board. The Board shall oversee the Oklahoma
23 Broadband Office. Effective June 30, 2028, the Board shall

24

1 terminate. The Board shall utilize the year prior to the
2 termination date for the purpose of ceasing the Board's affairs.

3 2. The Board shall receive regular reports from the Office's
4 Executive Director and the Executive Director's staff on the status
5 of the Statewide Broadband Plan, the State Broadband Grant Program,
6 other developed grant programs, and other projects the Office is
7 undertaking, during regularly scheduled meetings.

8 B. The Board shall consist of nine (9) members. Two members
9 shall be appointed by the Speaker of the Oklahoma House of
10 Representatives, two members shall be appointed by the President Pro
11 Tempore of the Oklahoma State Senate, three members shall be
12 appointed by the Governor, one member shall be the Lieutenant
13 Governor, and one member shall be the State Treasurer. Except as
14 provided in subsection C of this section, appointees shall serve
15 until June 30, 2028. No individual with an official affiliation,
16 paid or unpaid, with any potential recipient of a grant administered
17 under the provisions of this act, shall be appointed to or serve on
18 the Board.

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

21 D. 1. The Board shall hold an organizational meeting not later
22 than thirty (30) days from the effective date of this act. At such
23 meeting, the Board shall adopt qualifications and a salary range for
24 an Executive Director for the Oklahoma Broadband Office based on the

1 recommendations of the Human Capital Management Division of the
2 Office of Management and Enterprise Services, and provide for the
3 process of filling the position in a reasonable time in accordance
4 with the laws of this state.

5 2. The Board shall hold meetings as necessary at a place and
6 time to be fixed by the Board. The Board shall elect, at its first
7 meeting, one of its members to serve as chair and another of its
8 members to serve as vice-chair. At the first meeting in each
9 calendar year thereafter, the chair and vice-chair for the ensuing
10 year shall be elected. Special meetings may be called by the chair
11 or by five members of the Board by delivery of written notice to
12 each member of the Board. A majority of members serving on the
13 Board shall constitute a quorum of the Board.

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

17 F. The Board shall be subject to the Oklahoma Open Meeting Act
18 and the Oklahoma Open Records Act.

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

22 H. The Board shall promulgate rules as necessary to implement
23 the provisions of the Oklahoma Broadband Expansion Act and for the
24 governance and operation of the Oklahoma Broadband Office.

1 I. The Board shall approve or disapprove all grant and
2 incentive programs created by the Office under the provisions of
3 this act or under law.

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

9 K. The Board shall approve the Statewide Broadband Plan and
10 updates to the Plan as necessary.

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

13 Section 139.202 A. There is hereby created, until June 30,
14 2028, the ~~Rural~~ Broadband Expansion Council. Effective June 30,
15 2028, the Council shall terminate. The Council shall utilize the
16 year prior to the termination date for the purpose of ceasing the
17 Council's affairs.

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

20 1. Three members shall be appointed by the Governor, one of
21 whom shall be ~~a government official who has knowledge of and~~
22 ~~experience with the technology assets and operations of the Oklahoma~~
23 ~~Department of Transportation, OneNet and the Oklahoma Office of~~
24 ~~Management and Enterprise Services and who is not and has not been~~

1 ~~previously employed by OneNet~~ the individual serving as the
2 Executive Director of the Oklahoma Broadband Office, one of whom
3 shall be a current or past mayor of a municipality having a
4 population of less than thirty-five thousand (35,000) persons
5 according to the latest Federal Decennial Census or most recent
6 population estimate and which is not part of either the Oklahoma
7 City or Tulsa Metropolitan Statistical ~~Area~~ Areas, and one of whom
8 shall be a ~~representative of a wireless telecommunications provider~~
9 ~~with operations in Oklahoma and at least twenty-four other states~~
10 resident of this state and a wireless Internet service provider
11 (WISP);

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

24

1 3. Five members shall be appointed by the President Pro Tempore
2 of the Oklahoma State Senate, one of whom shall be a professional
3 having academic expertise in large-scale information technology
4 infrastructure with emphasis on rural broadband access, one of whom
5 shall represent the interests of rural business enterprises, one of
6 whom shall be a citizen from a community of less than fifty thousand
7 (50,000) persons which is not part of either the Oklahoma City or
8 Tulsa Metropolitan Statistical Areas, one of whom shall be a rural
9 electric cooperative representative and one who shall be an Oklahoma
10 resident and Tribal Leader of a tribe recognized in this state; and

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

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

15 ~~6.~~ One nonvoting member to be selected by the Oklahoma
16 Corporation Commission who has expertise in administration of the
17 Universal Service Fund, but who is not an elected member of the
18 Commission.

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

1 ~~D.~~ A quorum of the membership of the Council shall be necessary
2 in order to take any final action pursuant to the provisions of this
3 act.

4 ~~E.~~ D. The Council shall be subject to the Oklahoma Open Meeting
5 Act and the Oklahoma Open Records Act.

6 ~~F.~~ ~~The Rural Broadband Expansion Council shall conduct a study~~
7 ~~of rural broadband access in the state and shall divide the state~~
8 ~~into separate geographic areas based on the information it obtains~~
9 ~~regarding existing capability for persons and businesses to access~~
10 ~~broadband telecommunication services, the cost for obtaining the~~
11 ~~services from existing service providers, the estimated costs for~~
12 ~~improving rural broadband access, the likelihood of changes in rural~~
13 ~~broadband access in the near and intermediate future based on~~
14 ~~available information regarding private or public sector plans or~~
15 ~~programs to create or enhance broadband access in rural areas, the~~
16 ~~need for change in state or local law or policy that impacts the~~
17 ~~ability for persons or business entities in rural areas to access~~
18 ~~broadband services at a reasonable price and such other information~~
19 ~~as the Council may determine to be relevant in order to establish~~
20 ~~the geographic areas.~~

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

1 ~~H. The Council shall undertake a study of incentives or~~
2 ~~programs that would have the effect of improving existing rural~~
3 ~~broadband access and establishing broadband access to areas which~~
4 ~~currently do not have such access. The incentives or programs may~~
5 ~~include federal funds, tribal funds or resources, donated funds or~~
6 ~~funding available from foundations, endowments or similar sources,~~
7 ~~state or local tax incentives, state or local financing incentives~~
8 ~~or options or federal, tribal, state or local regulatory policies~~
9 ~~that would be conducive to improving existing broadband access or~~
10 ~~establishing such access where it does not currently exist.~~

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

16 ~~J. The Council shall have the right to obtain information from~~
17 ~~counties, cities, towns, school districts, career technology~~
18 ~~districts, public trusts, or other entities or instrumentalities of~~
19 ~~local government, to the extent information requested is not~~
20 ~~required to be kept confidential pursuant to some other requirement,~~
21 ~~regarding any of the matters as specified in this section relevant~~
22 ~~to the Council's duties.~~

23 ~~K. The Council shall utilize the~~
24

1 E. The Council shall serve as the advisory board to the
2 Oklahoma Broadband Office.

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

5 1. Identifying geographic areas ~~it establishes pursuant to the~~
6 ~~Oklahoma Rural Broadband Expansion Act in order to develop its~~
7 ~~recommendations regarding the implementation of~~ to be utilized in
8 developing the Office's policies that are conducive to for
9 establishing or improving rural broadband access in the state.
10 pursuant to the Oklahoma Broadband Expansion Act;

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

17 ~~M. The Council shall give emphasis to maintaining~~ 3.
18 Maintaining the viability of the Oklahoma Universal Service Fund and
19 give consideration to whether similar universal funds should be
20 implemented in order to facilitate broadband expansion and
21 operational costs for underserved areas.; and

22 ~~N. The Council shall give emphasis to the prevention of~~ 4.
23 Preventing duplication of facilities and investment when it the
24 Office makes policy grant recommendations. The With the input of

1 the Council, the Oklahoma Broadband Office shall establish objective
2 standards in order to determine whether the construction of ~~rural~~
3 broadband access constitutes duplication of facilities and
4 investment and also the role of any recommended incentives that
5 would benefit entities in the private sector so that public
6 resources are effectively utilized and that duplication of efforts
7 is avoided.

8 ~~O. The Oklahoma Department of Commerce shall create a dedicated~~
9 ~~webpage or website in order to allow public access to the actions~~
10 ~~and recommendations of the Council. The webpage or website shall~~
11 ~~contain the mapping system required by subsection C of this section~~
12 ~~and its related information.~~

13 ~~P. The Oklahoma Department of Commerce shall provide~~
14 ~~administrative support to the Council and shall utilize the Digital~~
15 ~~Transformation Program Revolving Fund for expenses related to such~~
16 ~~administrative support as provided by Section 36 of Title 62 of the~~
17 ~~Oklahoma Statutes.~~

18 ~~Q. The Rural Broadband Expansion Council shall submit an annual~~
19 ~~report, not later than January 31, summarizing discussions,~~
20 ~~testimony, analysis, information or other actions and significant~~
21 ~~events during the preceding calendar year and containing the~~
22 ~~recommendations, if any, by the Council for legislation, action by~~
23 ~~executive branch agencies or other actions in furtherance of the~~
24 ~~mission and duties of the Council. The report shall be submitted to~~

1 ~~the Governor, the Speaker of the Oklahoma House of Representatives~~
2 ~~and the President Pro Tempore of the Oklahoma State Senate.~~

3 ~~R. On or before October 31, 2021, the Council shall develop a~~
4 ~~set of broadband incentive award guidelines for recommendation to~~
5 ~~the State Legislature. The Council shall submit a copy of the~~
6 ~~guidelines to the Speaker of the Oklahoma House of Representatives,~~
7 ~~the President Pro Tempore of the Oklahoma State Senate, and to the~~
8 ~~chairs of the appropriate legislative committees. The guidelines~~
9 ~~shall:~~

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

- 12 ~~a. the area's need for services, including, but not~~
13 ~~limited to, whether the area is underserved, unserved,~~
14 ~~rural or urban,~~
- 15 ~~b. whether there are existing broadband assets in the~~
16 ~~area, based on the statewide map,~~
- 17 ~~c. whether existing federal, state, local, tribal or~~
18 ~~private resources have been allocated to broadband~~
19 ~~services in the area,~~
- 20 ~~d. a preference for federal, state, local, tribal or~~
21 ~~private partnerships, and~~
- 22 ~~e. the capacity of the provider to maintain assets for an~~
23 ~~extended period of time; and~~

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

6 G. The Council shall receive administrative support from the
7 Oklahoma Broadband Office.

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

11 A. There is hereby created until June 30, 2028, the Oklahoma
12 Broadband Office, to serve as the state's sole administrator of the
13 functions, powers, and duties assigned to the Office in this act or
14 under law. Effective June 30, 2028, the Office shall terminate and
15 all personnel positions shall be abolished. The Office shall
16 utilize the year prior to the termination date for the purpose of
17 ceasing the Office's affairs.

18 B. The Office shall receive administrative assistance from the
19 Office of Management and Enterprise Services (OMES), which shall
20 provide, through existing OMES resources, administrative assistance
21 upon request in writing or electronic correspondence from the
22 Office's Executive Director, within a reasonable time to allow the
23 performance of the Office's duties or respond in writing within ten
24 (10) days of the request providing reasons why the request cannot be

1 fulfilled. If the request cannot be fulfilled utilizing existing
2 resources, OMES may charge the Office for the actual cost to fulfill
3 the request.

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

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

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

10 1. Overseeing the creation, maintenance, and completion of the
11 Statewide Broadband Plan;

12 2. Communicating the state's progress in achieving the goals
13 and implementation of the Statewide Broadband Plan;

14 3. The creation, housing, and updating of a statewide broadband
15 services map;

16 4. Overseeing of grant applications and awards for connectivity
17 and affordability projects;

18 5. Making recommendations to the Board regarding procedural and
19 administrative rules for the Office; and

20 6. Employment and management of Office staff subject to the
21 limitations and requirements of this act and subject to the
22 limitations and requirements of the Broadband Governing Board.

23 F. The Executive Director shall regularly report to the Council
24 and the Board and shall submit an annual report to the Office of the

1 Speaker of the Oklahoma House of Representatives and the Office of
2 the President Pro Tempore of the Oklahoma State Senate.

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

6 A. The Oklahoma Broadband Office shall:

7 1. Conduct a study of and continually monitor broadband access
8 in the state to assess:

9 a. existing capabilities to access broadband
10 telecommunication services,

11 b. the costs of obtaining broadband services from
12 existing providers,

13 c. the estimated cost to improve broadband access, and

14 d. the likelihood of changes in broadband access in the
15 near and intermediate future based on available
16 information regarding public and private programs to
17 enhance access and adoption; and

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

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

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

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

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

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

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

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

1 F. The Office shall create, and update no less than biannually,
2 a Statewide Broadband Plan. The Plan shall detail what areas are
3 served, underserved, or unserved according to the prevailing
4 definitions of the FCC, and how best to improve the infrastructure
5 and connectivity in underserved and unserved areas. The Plan shall
6 include, but shall not be limited to, detailing a pathway for
7 ninety-five percent (95%) of the state's population to be adequately
8 served by June 30, 2028.

9 G. The Office shall create the Capital Projects Fund Grant
10 Report or provide the necessary information to the state entity
11 drafting the Report. The Report shall be submitted to the
12 Department of the Treasury no later than September 24, 2022. The
13 Office shall maintain the Report and submit any and all additional
14 information as required. The Office shall work with the Joint
15 Committee to ensure all approved broadband projects utilizing funds
16 from the Capital Projects Fund follow the correct reporting
17 requirements based on Department of Treasury guidance.

18 H. Additionally, the Office is authorized to seek, apply for,
19 and administer funding through grant opportunities. The Office is
20 also authorized to administer grant funding awards to recipients and
21 subrecipients.

22 I. On or before October 31, 2022, the Office, with the advice
23 of the Council, shall develop a set of broadband grants or incentive
24 awards guidelines to be approved by the Board. The grants and

1 incentive awards shall be for unserved and underserved areas. The
2 Office shall submit a copy of the guidelines to the Office of the
3 Speaker of the Oklahoma House of Representatives, the Office of the
4 President Pro Tempore of the Oklahoma State Senate, and to the
5 offices of the chairs of the appropriate legislative committees.

6 The guidelines shall:

7 1. Consider a weighted approach for awards based upon the
8 following:

9 a. the area's need for services, including, but not
10 limited to, whether the area is underserved or
11 unserved,

12 b. whether there are existing broadband assets in the
13 area, based on the statewide map,

14 c. whether existing federal, state, local, tribal, or
15 private resources have been allocated to broadband
16 services in the area,

17 d. a preference for federal, state, local, tribal, or
18 private partnerships, and

19 e. the capacity of the provider to maintain assets for an
20 extended period of time;

21 2. Recommend any necessary controls including, but not limited
22 to, capping the dollar amount of awards, allowing for an auditing
23 process, and a process that allows for award clawbacks. These
24

1 controls shall be in place to ensure the maximum efficiency of the
2 incentive award and to protect against waste, fraud, or abuse; and

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

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

10 A. State agencies, counties, cities, towns, school districts,
11 career technology districts, institutions of higher education,
12 public trusts, other entities or instrumentalities of local
13 government, and Internet service providers shall, at the request of
14 the Oklahoma Broadband Office, provide information to the Office
15 regarding any matters as specified in this act relevant to the
16 Office's duties.

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

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

22 A. By December 31, 2022, the Executive Director of the Oklahoma
23 Broadband Office shall identify all programs, personnel, and assets
24 within state government that are duplicative or complementary to the

1 mission of the Office and of such recommend which programs,
2 personnel, and assets the Executive Director identifies as needing
3 to be transferred to the Office, except as provided in subsections C
4 and D of this section.

5 B. Upon the receipt of the recommendation provided for in
6 subsection A of this section, the Director of the Office of
7 Management and Enterprise Services is authorized to transfer such
8 programs, personnel, and assets to the Office.

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

11 1. Those assets or personnel associated with broadband and
12 Internet connectivity at the Oklahoma Corporation Commission;

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

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

17 D. Programs, personnel, and assets of the Oklahoma State
18 Regents for Higher Education, identified by the Executive Director
19 as duplicative or complementary to the mission of the Office, shall
20 be made available as agreed to in contracts between the Office and
21 the Oklahoma State Regents for Higher Education following a
22 recommendation by the Executive Director to the Oklahoma State
23 Regents for Higher Education. Should the Office and the Oklahoma
24 State Regents for Higher Education fail to reach contractual

1 agreements within ninety (90) days of the Executive Director's
2 recommendation, the Executive Director shall provide written
3 notification of a failure to reach contractual agreement to the
4 Broadband Governing Board, the Speaker of the Oklahoma House of
5 Representatives, and the President Pro Tempore of the Oklahoma State
6 Senate.

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

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

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

19 A. The Office, with the participation and advice of the
20 Broadband Expansion Council and approval from the Board, shall
21 establish the State Broadband Grant Program. The Program shall
22 include development of competitive grants to be awarded to
23 applicants seeking to expand access to broadband Internet services
24 in this state, focusing on areas considered unserved and underserved

1 by the FCC. The Office, Council, and Board shall examine best
2 practices in other states to facilitate the framework of the
3 Program. The Office shall administer the Program.

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

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

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

18 E. There is hereby created in the State Treasury a revolving
19 fund for the Office to be designated the "State Broadband Grant
20 Program Revolving Fund". The revolving fund shall be a continuing
21 fund, not subject to fiscal year limitations, and shall consist of
22 all monies designated for deposit to said fund. All monies accruing
23 to the credit of said revolving fund are hereby appropriated and may
24 be budgeted and expended by the Office for purposes of awarding

1 grants by and through the Office pursuant to subsection A of this
2 section and for the operating expenses of the Office.

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

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

24

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

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

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

1 ~~or account numbers. The Department shall use a third party to~~
2 ~~collect the data submitted by private providers under the provisions~~
3 ~~of this act. The third party shall deliver data to the Department~~
4 ~~following a white label process to remove information identifying~~
5 ~~specific providers.~~

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

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

20 SECTION 12. RECODIFICATION 17 O.S. 2021, Section
21 139.201, as amended by Section 1 of this act, shall be recodified as
22 Section 9200 of Title 74 of the Oklahoma Statutes, unless there is
23 created a duplication in numbering.

24

1 SECTION 13. RECODIFICATION 17 O.S. 2021, Section
2 139.202, as amended by Section 4 of this act, shall be recodified as
3 Section 9203 of Title 74 of the Oklahoma Statutes, unless there is
4 created a duplication in numbering.

5 SECTION 14. RECODIFICATION 17 O.S. 2021, Section
6 139.203, as amended by Section 11 of this act, shall be recodified
7 as Section 9210 of Title 74 of the Oklahoma Statutes, unless there
8 is created a duplication in numbering.

9 SECTION 15. REPEALER 17 O.S. 2021, Section 139.204, is
10 hereby repealed.

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

15 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
16 April 13, 2022 - DO PASS AS AMENDED
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