

House Bill 5
Senate Amendments
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HOUSE VERSION

SECTION 1. Section 490H.002, Government Code, is amended to read as follows:

Sec. 490H.002. **COMPOSITION.** (a) The council is composed of one nonvoting member appointed by the broadband development office and the following [17] voting members appointed by the governor:

(1) two representatives of separate Internet service provider industry associations, including at least one representative of an association that primarily represents small providers, as defined by Section 56.032, Utilities Code, ~~appointed by the governor~~;

(2) one representative of the health information technology industry, ~~appointed by the governor~~;

(3) two representatives of unaffiliated nonprofit organizations that advocate for elderly persons statewide, ~~appointed by the governor~~;

(4) two representatives of unaffiliated nonprofit organizations that have a demonstrated history of working with the legislature and the public to identify solutions for expanding broadband to rural, unserved areas of this state, ~~appointed by the governor~~;

(5) one representative of an agricultural advocacy organization in this state, ~~appointed by the governor~~;

(6) one representative of a hospital advocacy organization in this state, ~~appointed by the governor~~;

(7) one representative of a medical advocacy organization in this state, ~~appointed by the governor~~;

(8) one county official who serves in an elected office of a county with a population of less than 35,000, ~~appointed by the governor~~;

(8-a) one county clerk of a county with a population of less than 60,000;

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SECTION 1. Section 490H.002(a), Government Code, is amended to read as follows:

(a) The council is composed of one nonvoting member appointed by the state broadband development office and the following 17 voting members:

(1) two representatives of separate Internet service provider industry associations, including at least one representative of an association that primarily represents regulated small providers, as defined by Section 56.032, Utilities Code, ~~appointed by the governor~~;

(2) one representative of the health information technology industry, ~~appointed by the governor~~;

(3) two representatives of unaffiliated nonprofit organizations that advocate for elderly persons statewide, ~~appointed by the governor~~;

(4) two representatives of unaffiliated nonprofit organizations that have a demonstrated history of working with the legislature and the public to identify solutions for expanding broadband to rural, unserved areas of this state, ~~appointed by the governor~~;

(5) one representative of an agricultural advocacy organization in this state, ~~appointed by the governor~~;

(6) one representative of a hospital advocacy organization in this state, ~~appointed by the governor~~;

(7) one representative of a medical advocacy organization in this state, ~~appointed by the governor~~;

(8) one county official who serves in an elected office of a county with a population of less than 35,000, ~~appointed by the governor~~;

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~~(8-b) one sheriff of a county with a population of less than 60,000;~~

~~(9) one municipal official who serves in an elected office of a municipality with a population of less than 20,000 located in a county with a population of less than 60,000 [appointed by the governor];~~

~~(10) one representative of an institution of higher education that has its main campus in a county with a population of less than 60,000 [appointed by the governor];~~

~~(11) one representative of a school district with a territory that includes only counties with a population of less than 60,000 [appointed by the governor];~~

~~(12) one representative from a library association [appointed by the governor];~~

~~(13) one hospital administrator employed by a licensed hospital located in a county with a population of less than 60,000 [member of the house of representatives, appointed by the speaker of the house of representatives]; [and]~~

~~(14) one representative from an electric cooperative providing broadband [state senator, appointed by the lieutenant governor];~~

~~(15) one representative of a school district with a territory that includes all or part of a county with a population of more than 500,000; and~~

~~(16) one representative of a nonprofit organization that has a demonstrated history of facilitating broadband adoption by offering digital literacy training or providing access to broadband technology.~~

~~(b) The entities making appointments under Subsection (a) shall, to the greatest extent practicable, ensure that the composition of the council reflects the racial and ethnic composition of the state.~~

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(9) one municipal official who serves in an elected office of a municipality with a population of less than 20,000 located in a county with a population of less than 60,000, appointed by the governor;

(10) one representative of an institution of higher education that has its main campus in a county with a population of less than 60,000, appointed by the governor;

(11) one representative of a school district with a territory that includes only counties with a population of less than 60,000, appointed by the governor;

(12) one representative from a library association, appointed by the governor;

(13) one member of the house of representatives, appointed by the speaker of the house of representatives; and

(14) one state senator, appointed by the lieutenant governor.

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~~(c) [(b)]~~ A member of the council appointed under Subsection (a) serves for a five-year term.

~~(d) [(e)]~~ A vacancy on the council is filled in the same manner as the original appointment.

SECTION 2. Section 490H.003, Government Code, is amended to read as follows:

Sec. 490H.003. COUNCIL OFFICERS; COMMITTEES ~~[PRESIDING OFFICER]~~. (a) The governor shall designate from the members of the council a chair and vice chair ~~the presiding officer~~ of the council for two-year terms.

(b) The chair and the vice chair each must reside in a county with a population of:

(1) less than 100,000; or

(2) more than 250,000.

(c) When designating a chair or vice chair, the governor shall ensure that:

(1) during a term when the chair resides in a county with a population of more than 250,000, the vice chair resides in a county with a population of less than 100,000;

(2) during a term when the chair resides in a county with a population of less than 100,000, the vice chair resides in a county with a population of more than 250,000;

(3) persons described by Subdivision (1) are immediately succeeded by persons described by Subdivision (2); and

(4) persons described by Subdivision (2) are immediately succeeded by persons described by Subdivision (1).

(d) The chair may appoint subcommittees and technical advisory committees to assist with the duties of the council.

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No equivalent provision.

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SECTION 3. Section 490H.004, Government Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) The council shall convene at the call of the chair or, if the chair is unable to call a meeting or does not call at least one meeting to meet the requirements of Subsection (a), at the call of the vice chair [presiding officer].

(c) The council shall:

(1) post the agenda for each council meeting on the council's Internet website at least 48 hours before the meeting; and

(2) not later than the 14th day after the date of each meeting, post on the council's Internet website the minutes or recording of the meeting required under Section 551.021.

(d) As an exception to Chapter 551 and other law, the council may meet by use of video conference call. This subsection applies for purposes of constituting a quorum, for purposes of voting, and for any other purpose allowing a member of the council to fully participate in any meeting of the council. A meeting held by use of video conference call:

(1) must be open to the public, which includes a video broadcast of the meeting in real time through the council's Internet website;

(2) must specify in the meeting notice the link to the video broadcast described by Subdivision (1); and

(3) must provide two-way video communication between all council members attending the meeting.

SECTION 4. Sections 490H.006(a) and (b), Government Code, are amended to read as follows:

(a) The council shall:

(1) research the progress of:

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No equivalent provision.

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SECTION 2. Section 490H.006(a), Government Code, is amended to read as follows:

(a) The council shall:

(1) research **and monitor** the progress of:

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- (A) broadband development in unserved areas;
- (B) deployment of broadband statewide;
- (C) purchase of broadband by residential and commercial customers; and
- (D) patterns and discrepancies in access to broadband;
- (2) identify barriers to residential and commercial broadband deployment in unserved areas;
- (3) study:
 - (A) technology-neutral solutions to overcome barriers identified under Subdivision (2); and
 - (B) industry and technology trends in broadband; and
- (4) analyze how statewide access to broadband would benefit:
 - (A) economic development;
 - (B) the delivery of educational opportunities in higher education and public education;
 - (C) state and local law enforcement;
 - (D) state emergency preparedness; and
 - (E) the delivery of health care services, including telemedicine and telehealth.
- (b) The council may research another matter related to broadband ~~[only if a majority of the council approves researching the matter].~~

SECTION 5. Subtitle F, Title 4, Government Code, is amended by adding Chapter 490I to read as follows:
CHAPTER 490I. BROADBAND DEVELOPMENT OFFICE
Sec. 490I.0101. THRESHOLD SPEED FOR BROADBAND SERVICE. (a) For purposes of this chapter,

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- (A) broadband development in unserved areas;
- (B) deployment of broadband ~~services~~ statewide; and
- (C) purchase of broadband by residential and commercial customers;
- (2) identify barriers to residential and commercial broadband deployment in unserved areas;
- (3) study:
 - (A) technology-neutral solutions to overcome barriers identified under Subdivision (2); and
 - (B) industry and technology trends in broadband ~~services~~; and
- (4) analyze how statewide access to broadband would benefit:
 - (A) economic development;
 - (B) the delivery of educational opportunities in higher education and public education;
 - (C) state and local law enforcement;
 - (D) state emergency preparedness; and
 - (E) the delivery of health care services, including telemedicine and telehealth.

SECTION 3. Subtitle F, Title 4, Government Code, is amended by adding Chapter 490I to read as follows:
CHAPTER 490I. ~~STATE~~ BROADBAND DEVELOPMENT OFFICE
Sec. 490I.0103. THRESHOLD SPEED FOR BROADBAND SERVICE. (a) For ~~the~~ purposes of this

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subject to Subsection (b), "broadband service" means Internet service with the capability of providing:

(1) a download speed of 25 megabits per second or faster; and

(2) an upload speed of three megabits per second or faster.

(b) If the Federal Communications Commission adopts upload or download threshold speeds for advanced telecommunications capability under 47 U.S.C. Section 1302 that are different than those specified by Subsection (a), the comptroller may require Internet service to be capable of providing download or upload speeds that match that federal threshold in order to qualify under this chapter as "broadband service."

(c) Not later than the 60th day after the date the comptroller adjusts the minimum download or upload speeds required for Internet service to qualify as "broadband service," the broadband development office shall publish on the comptroller's Internet website the adjusted minimum download and upload speeds.

Sec. 490I.0102. OFFICE. (a) The broadband development office is an office within the comptroller's office.

(b)

The comptroller may employ additional employees necessary for the discharge of the duties of the broadband development office.

(c) The broadband development office:

(1) is under the direction and control of the comptroller;

(2) shall promote the policies enumerated in this chapter; and

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chapter and subject to Subsection (b), "broadband service" means Internet service with the capability of providing:

(1) a download speed of 25 megabits per second or faster; and

(2) an upload speed of 3 megabits per second or faster.

(b) If the Federal Communications Commission adopts download or upload threshold speeds for advanced telecommunications capability under 47 U.S.C. Section 1302 that are higher than those specified by Subsection (a), the state broadband development office by rule may require Internet service to be capable of providing download and upload speeds that match those federal threshold speeds in order to qualify as broadband service under this chapter.

(c) Not later than the 60th day after the date the state broadband development office adjusts the minimum download or upload speeds required for Internet service to qualify as broadband service under this chapter, the office shall publish the adjusted minimum download and upload speeds on the comptroller's Internet website.

Sec. 490I.0101. OFFICE. (a) The state broadband development office is established to promote the expansion of access to broadband service in this state.

(b) The state broadband development office is administratively attached to The University of Texas System. The system may employ additional employees necessary for the discharge of the duties of the office.

(c) The state broadband development office:

(1) is under the direction and control of the board of advisors established by Section 490I.0104;

(2) shall promote the policies enumerated in this chapter; and

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(3) may perform any action authorized by state or federal law.

Sec. 490I.0103. POWERS AND DUTIES. (a) The broadband development office shall:

(1) serve as a resource for information regarding broadband service and digital connectivity in this state;

(2) engage in outreach to communities regarding the expansion, adoption, affordability, and use of broadband service and the programs administered by the office; and

(3) serve as an information clearinghouse in relation to:

(A) federal programs providing assistance to local entities with respect to broadband service; and

(B) addressing barriers to digital connectivity.

(b) The office has the powers necessary to carry out the duties of the office under this chapter, including the power to enter into contracts and other necessary instruments.

(c) This chapter does not grant the comptroller authority to regulate broadband services or broadband service providers or, except as required of an applicant or recipient under Section 490I.0106, to require broadband service providers to submit information to the comptroller.

(d) For the purpose of carrying out a duty or power of the office under this chapter, the office may:

(1) advertise in any available media; and

(2) promote the office's programs and functions.

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(3) may perform any action authorized by state or federal law.

Sec. 490I.0102. POWERS AND DUTIES. (a) The state broadband development office shall:

(1) serve as a resource for information regarding broadband service in this state;

(2) engage in outreach to communities regarding the expansion, adoption, and affordability of broadband service and the programs administered by the office; and

(3) serve as an information clearinghouse regarding federal programs that provide assistance to local entities with respect to broadband service.

(b) The office has the powers necessary to carry out the duties of the office under this chapter, including the power to enter into contracts and other necessary instruments.

(c) This chapter does not grant the office authority to regulate broadband services or broadband service providers or, except as provided by Section 490I.0107, to require broadband service providers to submit information to the office.

Sec. 490I.0104. BOARD OF ADVISORS. (a) In this section:

(1) "Rural area" means a county with a population of less than 100,000 that is not adjacent to a county with a population of more than 350,000.

(2) "Urban area" means:

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(A) a municipality with a population of more than 500,000;
or
(B) a county with a population of more than 1 million.
(b) The state broadband development office board of advisors is composed of 12 members, appointed as follows:
(1) three members appointed by the governor, including:
(A) one member to represent the Texas Economic Development and Tourism Office; and
(B) two members to represent nonprofit corporations that work on broadband connectivity, broadband adoption, and digital literacy;
(2) three members appointed by the lieutenant governor, including:
(A) one member who resides in a rural area;
(B) one member who resides in an urban area; and
(C) one member to represent the public education community;
(3) three members appointed by the speaker of the house of representatives, including:
(A) one member who resides in a rural area;
(B) one member who resides in a county that:
(i) is adjacent to an international border;
(ii) is located not more than 150 miles from the Gulf of Mexico; and
(iii) has a population of more than 60,000; and
(C) one member to represent the health and telemedicine industry;
(4) one member appointed by the board of regents of The University of Texas System;
(5) one member appointed by the board of regents of the Texas Tech University System; and

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(6) one nonvoting member appointed by the state broadband development office to represent the office.

(c) Members of the board of advisors serve at the pleasure of the appointing authority for staggered two-year terms, with the terms of the members described by Subsections (b)(1) and (2) expiring February 1 of each odd-numbered year and the terms of the members described by Subsections (b)(3), (4), (5), and (6) expiring February 1 of each even-numbered year. A member may serve more than one term.

(d) Not later than the 30th day after the date a member's term expires, the appropriate appointing authority shall appoint a replacement in the same manner as the original appointment.

(e) If a vacancy occurs on the board of advisors, the appropriate appointing authority shall appoint a successor in the same manner as the original appointment to serve for the remainder of the unexpired term. The appropriate appointing authority shall appoint the successor not later than the 30th day after the date the vacancy occurs.

(f) The board of advisors shall meet at least once per month with representatives from the state broadband development office for the purpose of directing and overseeing the work of the office in implementing the provisions of this chapter.

(g) The board of advisors may retain employees to discharge the duties of the office.

(h) A person who is professionally affiliated with a person serving as a member of the board of advisors is not eligible for funding from the broadband development program established under Section 490I.0107.

(i) The board of advisors may consult with stakeholders with technical expertise in the area of broadband and telecommunication technology.

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Sec. 490I.0104. PARTICIPATION IN PROCEEDINGS OF THE FEDERAL COMMUNICATIONS COMMISSION.

(a) The broadband development office may monitor, participate in, and provide input in proceedings of the Federal Communications Commission related to the geographic availability and deployment of broadband service in this state to ensure that:

(1) the information available to the Federal Communications Commission reflects the current status of geographic availability and deployment of broadband service in this state; and

(2) this state is best positioned to benefit from broadband service deployment programs administered by federal agencies.

(b) The office may participate in a process established by the Federal Communications Commission allowing governmental entities to challenge the accuracy of the commission's information regarding the geographic availability and deployment of broadband service.

(c) The office shall establish procedures and a data collection process in accordance with rules established by the Federal Communications Commission for the Digital Opportunity Data Collection that will enable the office to participate in the process described by Subsection (b).

Sec. 490I.0105. BROADBAND DEVELOPMENT MAP.

(a)

The broadband development office shall create, update annually, and publish on the comptroller's Internet website a map classifying each designated area in this state as:

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(j) Meetings of the board of advisors are subject to Chapter 551.

Sec. 490I.0105. PARTICIPATION IN PROCEEDINGS OF FEDERAL COMMUNICATIONS COMMISSION.

(a) The state broadband development office may monitor, participate in, and provide input in proceedings of the Federal Communications Commission related to the geographic availability and deployment of broadband service in this state to ensure that:

(1) the information available to the commission reflects the current status of geographic availability and deployment of broadband service in this state;

and

(2) this state is best positioned to benefit from broadband service deployment programs administered by federal agencies.

(b) The office may participate in a process established by the Federal Communications Commission allowing governmental entities to challenge the accuracy of the commission's information regarding the geographic availability and deployment of broadband service.

(c) The office shall establish procedures and a data collection process in accordance with rules established by the Federal Communications Commission that will enable the office to participate in the process described by Subsection (b).

Sec. 490I.0106. BROADBAND DEVELOPMENT MAP.

(a) The state broadband development office shall develop and maintain a public Internet website.

(b) The office shall create, update annually, and publish on the office's Internet website a map classifying each designated area in this state as:

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(1) an eligible area, if fewer than 80 percent of the addresses in the designated area have access to broadband service; or
(2) an ineligible area, if 80 percent or more of the addresses in the designated area have access to broadband service.
(b) The comptroller by rule may determine the scope of a designated area under Subsection (a).

(c) The map required by Subsection (a) must display:

(1) the number of broadband service providers that serve each designated area;
(2) for each eligible area, an indication of whether the area has access to Internet service that is not broadband service, regardless of the technology used to provide the service; and
(3) each public preschool or primary or secondary school in this state and an indication of whether the school has access to broadband service.

(d) The office must create, update, and publish the map in a manner consistent with the most current mapping methodology adopted by the Federal Communications Commission.

(e) Except as provided by Subsection (c), the office shall use information available from the Federal Communications Commission to create or update the map.

(f) If information from the Federal Communications Commission is not available or not sufficient for the office to create or update the map, the office may request the necessary information from a political subdivision or broadband service provider, and the subdivision or provider

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(1) an eligible area, if fewer than 80 percent of the addresses in the designated area have access to broadband service; or
(2) an ineligible area, if 80 percent or more of the addresses in the designated area have access to broadband service.
(c) The office by rule may determine the scope of a designated area under Subsection (b).

(d) After creation of the initial map described in Subsection (b), the office may evaluate the usefulness of the standards for eligible and ineligible areas outlined in Subsection (b) and, if appropriate, make a recommendation to the legislature to revise the standards.

(e) The map must display:

(1) the number of broadband service providers that serve each eligible area;
(2) for each eligible area, an indication of whether the area has access to Internet service that is not broadband service, regardless of the technology used to provide the service; and
(3) each public school campus in this state with an indication of whether the public school campus has access to broadband service.

(f) The office must create, update, and publish the map in a manner consistent with the Federal Communications Commission mapping methodology prescribed under the Broadband DATA Act (Pub. L. No. 116-130).

(g) Except as provided by Subsection (h), the office shall use information available from the Federal Communications Commission to create or update the map.

(h) If information from the Federal Communications Commission is not sufficient for the office to create or update the map, the office may request the necessary information from a political subdivision or broadband service provider, and the subdivision or provider may report the information

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may report the information to the office. The office may not require a subdivision or provider to report information in a format different from the format required by the most current mapping methodology adopted by the Federal Communications Commission.

(g) Information a broadband service provider reports to the office under Subsection (f) and information provided by the Federal Communications Commission, if not publicly available, is confidential and not subject to disclosure under Chapter 552.

(h) The office may contract with a private consultant or other appropriate person who is not associated or affiliated with a commercial broadband provider, including a local governmental entity, to provide technical or administrative assistance to the office for the purpose of creating or updating the map.

(i) The office may release information reported under Subsection (f) to a contractor providing services under Subsection (h). The contractor shall:

(1) keep the information confidential; and

(2) return the information to the office on the earliest of the following dates:

(A) the date the contract expires;

(B) the date the contract is terminated; or

(C) the date the mapping project for which the contractor is providing services is complete.

(j) A person who contracts under Subsection (h) may not provide services for a broadband provider in this state before the second anniversary of the last day the person was under the contract.

(k) The office shall establish criteria for determining whether a designated area should be reclassified as an

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to the office. The office may not require a subdivision or provider to report information in a format different from the format required by the Federal Communications Commission mapping methodology prescribed under the Broadband DATA Act (Pub. L. No. 116-130).

(i) Information a broadband service provider reports to the office under Subsection (h) and information provided by the Federal Communications Commission, if not publicly available, is confidential and not subject to disclosure under Chapter 552.

(j) The office may contract with a private consultant or other appropriate person who is not associated or affiliated with a commercial broadband provider, including a local governmental entity, to provide technical or administrative assistance to the office for the purpose of creating or updating the map.

(k) The office may release information reported under Subsection (h) to a contractor providing services under Subsection (j). The contractor shall:

(1) keep the information confidential; and

(2) return the information to the office on the earliest of the following dates:

(A) the date the contract expires;

(B) the date the contract is terminated; or

(C) the date the mapping project for which the contractor is providing services is complete.

(l) A person who contracts under Subsection (j) may not provide services for a broadband provider in this state before the second anniversary of the last day the contract is in effect.

(m) The office shall establish criteria for determining whether a designated area should be reclassified as an

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eligible area or an ineligible area. The criteria must include an evaluation of Internet speed test data and information on end user addresses.

(l) A broadband service provider or political subdivision may petition the office to reclassify a designated area on the map as an eligible area or ineligible area. The office shall provide notice of the petition to each broadband service provider that provides broadband service to the designated area and post notice of the petition on the comptroller's Internet website.

(m) Not later than the 45th day after the date that a broadband provider receives notice under Subsection (l), the provider shall provide information to the office showing whether the designated area should or should not be reclassified.

(n) Not later than the 75th day after the date that a broadband provider receives notice under Subsection (l), the office shall determine whether to reclassify the designated area on the map and update the map as necessary. A determination made by the office under this subsection is not a contested case for purposes of Chapter 2001.

(o) The office is not required to create, update, or publish a map under this section if the Federal Communications Commission produces a map that:

(1) enables the office to identify eligible and ineligible areas, as described by Subsection (a); and

(2) meets the requirements of Subsection (c).

Sec. 490I.0106. BROADBAND DEVELOPMENT PROGRAM. (a) The broadband development office shall establish a program to award grants, low-interest loans, and

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eligible area or an ineligible area. The criteria must include an evaluation of Internet speed test data and information on end user addresses. The criteria may also include community surveys regarding the reliability of Internet service, where available.

(n) A broadband service provider or political subdivision may petition the office to reclassify a designated area on the map as an eligible area or ineligible area. The office shall provide notice of the petition to each broadband service provider that provides broadband service to the designated area and post notice of the petition on the office's Internet website.

(o) Not later than the 45th day after the date that a broadband provider receives notice under Subsection (n), the provider shall provide information to the office showing whether the designated area should or should not be reclassified.

(p) Not later than the 75th day after the date that a broadband provider receives notice under Subsection (n), the office shall determine whether to reclassify the designated area on the map and update the map as necessary. A determination made by the office under this subsection is not a contested case for purposes of Chapter 2001.

(q) The office is not required to create, update, or publish a map under this section if the Federal Communications Commission produces a map that:

(1) enables the office to identify eligible and ineligible areas, as described by Subsection (b); and

(2) meets the requirements of Subsection (f).

Sec. 490I.0107. BROADBAND DEVELOPMENT PROGRAM. (a) The state broadband development office shall establish a program to award grants, low-interest loans, and other financial incentives to applicants for the purpose

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other financial incentives to applicants for the purpose of expanding access to and adoption of broadband service in designated areas determined to be eligible areas by the office under Section 490I.0105.

(b) The office shall establish and publish criteria for making awards under Subsection (a). The office shall:

(1) take into consideration grants and other financial incentives awarded by the federal government for the deployment of broadband service in a designated area;

(2) prioritize the applications of applicants that will expand access to and adoption of broadband service in eligible areas in which the lowest percentage of addresses have access to broadband service;

(3) prioritize an applicant that the broadband provided by the applicant will maintain a program to, by default, block access to pornographic or other obscene materials; and

(4) prioritize the applications of applicants that will expand access to broadband service in public and private primary and secondary schools and institutions of higher education.

(c) The office may not:

(1) favor a particular broadband technology in awarding grants, loans, or other financial incentives;

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of expanding access to and adoption of broadband service in designated areas determined to be eligible areas by the office under Section 490I.0106.

(b) The office shall establish and publish eligibility criteria for award recipients. The criteria must:

(1) include consideration of grants and other financial incentives awarded from the federal government for the deployment of broadband service in a designated area;

(2) require that grants, loans, and other financial incentives awarded through the program be used only for capital expenses, purchase or lease of property, and other expenses, including backhaul and transport, that will facilitate the provision or adoption of broadband service; and

(3) prioritize eligible areas in which the lowest percentage of addresses have access to broadband service.

(c) Notwithstanding Subsection (b)(3), the office may establish eligibility criteria that take into account a cost benefit analysis for awarding money to the eligible areas described by that subdivision.

(d) The office may not:

(1) favor a particular broadband technology in awarding grants, loans, or other financial incentives;

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(2) award grants, loans, or other financial incentives to a broadband provider that does not report information requested by the office under Section 490I.0105;

(3) award a grant, loan, or other financial incentive to a noncommercial provider of broadband service for an eligible area if a commercial provider of broadband service has submitted an application for the eligible area; or

(4) take into consideration distributions from the state universal service fund established under Section 56.021, Utilities Code, when deciding to award grants, loans, or other financial incentives.

(d) The office shall:

(1) post on the comptroller's Internet website information about the application process and the receipt of awards and shall update that information as necessary; and

(2) post on the comptroller's Internet website information from each application, including the applicant's name, the area targeted for expanded broadband service access or adoption by the application, and any other information the office considers relevant or necessary, for a period of at least 30 days before the office makes a decision on the application.

(e) During the 30-day posting period described by Subsection (d) for an application, the office shall accept from any interested party a written protest of the application relating to whether the applicant or project is eligible for an award or should not receive an award based on the criteria prescribed by the office.

(f) Notwithstanding any deadline for submitting an application, if the office upholds a protest submitted under Subsection (e) on the grounds that one or more of the addresses in an eligible area subject to the application have access to broadband service, the applicant may resubmit the

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(2) award grants, loans, or other financial incentives to a broadband provider that does not report information requested by the office under Section 490I.0106;

(3) award a grant, loan, or other financial incentive to a noncommercial provider of broadband service for an eligible area if a commercial provider of broadband service has submitted an application for the eligible area; or

(4) take into consideration distributions from the state universal service fund established under Section 56.021, Utilities Code, when deciding to award grants, loans, or other financial incentives.

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application without the challenged addresses not later than 30 days after the date that the office upheld the protest.

(g) The office shall establish and publish criteria for award recipients. The criteria must include requirements that grants, loans, and other financial incentives awarded through the program be used only for capital expenses, purchase or lease of property, and other expenses, including backhaul and transport, that will facilitate the provision or adoption of broadband service.

(h) An award granted under this section does not affect the eligibility of a telecommunications provider to receive support from the state universal service fund under Section 56.021, Utilities Code.

Sec. 490I.0107. STATE BROADBAND PLAN. (a) The broadband development office shall prepare, update, and publish on the comptroller's Internet website a state broadband plan that establishes long-term goals for greater access to and adoption, affordability, and use of broadband service in this state.

(b) In developing the state broadband plan, the office shall:

(1) to the extent possible, collaborate with state agencies, political subdivisions, broadband industry stakeholders and representatives, and community organizations that focus on broadband services and technology access;

(2) consider the policy recommendations of the governor's broadband development council;

(3) favor policies that are technology-neutral and protect all members of the public;

(4) explore state and regional approaches to broadband development; and

(5) examine broadband service needs related to:

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(e) An award granted under this section does not affect distributions received by a broadband provider from the state universal service fund established under Section 56.021, Utilities Code.

Sec. 490I.0109. STATE BROADBAND PLAN. (a) The state broadband development office shall prepare a state broadband plan that establishes long-term goals for greater access to and affordability and adoption of broadband service in this state.

(b) In developing the state broadband plan, the office shall:

(1) collaborate, to the extent possible, with state agencies, political subdivisions, broadband industry stakeholders and representatives, and community organizations that focus on broadband services and technology access;

(2) give consideration to the policy recommendations of the governor's broadband development council;

(3) favor policies that are technology-neutral and protect all members of the public;

(4) explore state and regional approaches to broadband development; and

(5) prioritize broadband needs related to

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(A) public safety, including the needs of state agencies involved in the administration of criminal justice, as that term is defined by Article 66.001, Code of Criminal Procedure;

(B) public education and state and local education agencies, including any agency involved in the electronic administration of an assessment instrument required under Section 39.023, Education Code; and

(C) public health, including the needs of state agencies involved in the administration of public health initiatives such as the Health and Human Services Commission and the Department of State Health Services.

Sec. 490I.0108. BROADBAND DEVELOPMENT ACCOUNT. (a) The broadband development account is an account in the general revenue fund.

(b) The account consists of:

(1) appropriations of money to the account by the legislature;

(2) gifts, donations, and grants, including federal grants; and

(3) interest earned on the investment of the money in the account.

(c) The comptroller shall deposit to the credit of the account federal money received by the state for the purpose of broadband development, to the extent permitted by federal law.

(d) Money in the account may be appropriated only to the broadband development office for purposes of:

(1) creating or updating the map described by Section 490I.0105;

(2) administering the broadband development program under Section 490I.0106;

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public education and state and local education agencies, including agencies involved in the electronic administration of all assessment instruments required under Section 39.023, Education Code.

Sec. 490I.0108. BROADBAND DEVELOPMENT FUND.

(a) The broadband development fund is a special fund in the state treasury outside of the general revenue fund.

(b) The fund consists of:

(1) appropriations of money to the fund by the legislature;

(2) gifts, donations, and grants, including federal grants; and

(3) interest earned on the investment of the money in the fund.

(c) The comptroller shall deposit to the credit of the fund federal money received by the state for the purpose of broadband development, to the extent permitted by state and federal law.

(d) Money in the fund may be appropriated only to the state broadband development office for purposes of:

(2) creating or updating the map described by Section 490I.0106;

(1) administering the broadband development program;

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(3) creating or updating the state broadband plan under Section 490I.0107; or

(4) engaging in outreach to communities regarding the expansion, adoption, affordability, and use of broadband service and the programs administered by the office.

(e) The account is exempt from the application of Sections 403.095, 403.0956, and 404.071.

Sec. 490I.0109. RULEMAKING. The comptroller may adopt rules as necessary to implement this chapter.

SECTION 6. (a) The broadband development office established by Section 490I.0102, Government Code, as added by this Act, shall publish the map required by Section 490I.0105, Government Code, as added by this Act, on the comptroller's Internet website not later than September 1, 2022.

(b) Not later than January 1, 2022, the office shall publish on the comptroller's Internet website:

(1) a map created by the Federal Communications Commission that displays the number of broadband service providers that serve each designated area; or

(2) a link to a map described by Subdivision (1) of this subsection.

(c) For the purpose of administering the broadband development program established by Section 490I.0106, Government Code, as added by this Act, the office shall use a map described by Subsection (b) of this section to

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(3) creating or updating the state broadband plan under Section 490I.0109; or

(4) engaging in outreach to communities regarding the programs administered by the office and the expansion, adoption, and affordability of broadband services and equipment.

(e) The fund is exempt from the application of Section 404.071.

Sec. 490I.0110. RULEMAKING. The state broadband development office may adopt rules necessary to implement this chapter. Rules must be:

(1) proposed and adopted according to Chapter 2001; and

(2) approved by a majority vote of the board of advisors.

SECTION 6. (a) The state broadband development office established by Section 490I.0101, Government Code, as added by this Act, shall publish the map required by Section 490I.0106, Government Code, as added by this Act, on the office's Internet website not later than January 1, 2023.

(b) Not later than September 1, 2022, the office shall publish on the office's Internet website:

(1) a map created by the Federal Communications Commission that displays the number of broadband service providers that serve each designated area; or

(2) a link to a map described by Subdivision (1) of this subsection.

(c) For the purpose of administering the broadband development program established by Section 490I.0107, Government Code, as added by this Act, the office shall use a map described by Subsection (b) of this section to

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determine whether an area is eligible until the office publishes the map required by Section 490I.0105, Government Code, as added by this Act.

No equivalent provision.

SECTION 7. The broadband development office established by Section 490I.0102, Government Code, as added by this Act, shall prepare the initial state broadband plan required by Section 490I.0107, Government Code, as added by this Act, not later than September 1, 2022.

SECTION 8. This Act takes effect September 1, 2021.

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determine whether an area is eligible until the office publishes the map required by Section 490I.0106, Government Code, as added by this Act.

SECTION 4. Not later than November 1, 2021, each appointing authority shall appoint the members of the state broadband development office board of advisors as required by Section 490I.0104, Government Code, as added by this Act. The board of advisors may not take action until a majority of the members have taken office.

SECTION 5. Not later than the first anniversary of the effective date of this Act, the state broadband development office established by Section 490I.0101, Government Code, as added by this Act, shall prepare the initial state broadband plan required by Section 490I.0109, Government Code, as added by this Act.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

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