

By: Ashby, Hunter, Hernandez, Bonnen,  
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H.B. No. 9

Substitute the following for H.B. No. 9:

By: Hernandez

C.S.H.B. No. 9

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the development and funding of broadband and  
3 telecommunications services; providing for transfers of money for  
4 funding.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 403, Government Code, is amended by  
7 adding Subchapter T to read as follows:

8 SUBCHAPTER T. TEXAS BROADBAND INFRASTRUCTURE FUND

9 Sec. 403.601. DEFINITIONS. In this subchapter:

10 (1) "Broadband Equity, Access, and Deployment  
11 Program" means the federal Broadband Equity, Access, and Deployment  
12 Program established by the Infrastructure Investment and Jobs Act  
13 (Pub. L. No. 117-58).

14 (2) "Fund" means the broadband infrastructure fund  
15 established under Section 49-d-16, Article III, Texas  
16 Constitution.

17 (3) "Next generation 9-1-1 service fund" means the  
18 fund established under Section 771.0713, Health and Safety Code.

19 (4) "Office" means the broadband development office  
20 established under Section 490I.0102.

21 (5) "Universal service fund" means the fund  
22 established under Section 56.021, Utilities Code.

23 Sec. 403.602. LEGISLATIVE FINDINGS; PUBLIC PURPOSE. The  
24 legislature finds that:

1           (1) the creation of the fund will meet an imperative  
2 public need and serve the economic, educational, and health care  
3 needs of this state; and

4           (2) the use of the fund is in furtherance of the public  
5 purpose of expanding and ensuring access to reliable, high-speed  
6 broadband and telecommunications connectivity.

7           Sec. 403.603. BROADBAND INFRASTRUCTURE FUND. (a) The  
8 broadband infrastructure fund is a special fund in the state  
9 treasury outside the general revenue fund. The fund consists of:

10           (1) appropriations from the legislature for deposit to  
11 the credit of the fund;

12           (2) money transferred or deposited to the credit of  
13 the fund by the constitution or by general law;

14           (3) revenue that the legislature by general law  
15 dedicates for deposit to the credit of the fund;

16           (4) investment earnings and interest earned on money  
17 in the fund; and

18           (5) gifts, grants, and donations to the fund.

19           (b) The fund shall be administered by the comptroller who,  
20 after taking into account any transfer required by this subchapter,  
21 may use money from the fund for any purpose authorized by Subsection

22 (c).

23           (c) The fund may be used only for:

24           (1) a purpose described by Chapter 490I;

25           (2) providing funding to the universal service fund  
26 for the purposes described by Section 56.021, Utilities Code;

27           (3) providing funding for 9-1-1 and next generation

1 9-1-1 services under Chapter 771, Health and Safety Code;

2 (4) supporting the deployment of next generation 9-1-1  
3 service, including its costs of equipment, operations, and  
4 administration, as provided by Section 771.0713, Health and Safety  
5 Code;

6 (5) supporting the Texas Broadband Pole Replacement  
7 Program established under Section 403.503, as added by Chapter 659  
8 (H.B. 1505), Acts of the 87th Legislature, Regular Session, 2021;

9 (6) providing matching funds for federal money  
10 provided for the Broadband Equity, Access, and Deployment Program;

11 (7) supporting increased connectivity needs for  
12 qualifying schools under the federal Schools and Libraries Program  
13 ("E-rate program") as provided by 47 C.F.R. Part 54, Subpart F, or  
14 similar legislation providing federal funding for broadband and  
15 telecommunications initiatives;

16 (8) improving public safety telecommunications  
17 connectivity, including support for school safety; and

18 (9) administering and enforcing this subchapter.

19 Sec. 403.604. MANAGEMENT AND INVESTMENT OF FUND. (a) In  
20 this section, "trust company" means the Texas Treasury Safekeeping  
21 Trust Company.

22 (b) The trust company shall hold and invest the fund, and  
23 any accounts established in the fund, for and in the name of the  
24 comptroller, taking into account the purposes for which money in  
25 the fund may be used. The fund may be invested with the state  
26 treasury pool and may be pooled with other state assets for purposes  
27 of investment.

1       (c) The overall objective for the investment of the fund is  
2 to maintain sufficient liquidity to meet the needs of the fund while  
3 striving to preserve the purchasing power of the fund over a full  
4 economic cycle.

5       (d) The trust company has any power necessary to accomplish  
6 the purposes of managing and investing the assets of the fund. In  
7 managing the assets of the fund, through procedures and subject to  
8 restrictions the trust company considers appropriate, the trust  
9 company may acquire, exchange, sell, supervise, manage, or retain  
10 any kind of investment that a prudent investor, exercising  
11 reasonable care, skill, and caution, would acquire or retain in  
12 light of the purposes, terms, distribution requirements, and other  
13 circumstances of the fund then prevailing, taking into  
14 consideration the investment of all the assets of the fund rather  
15 than a single investment.

16       (e) The trust company shall recover the costs incurred in  
17 managing and investing the fund only from the fund.

18       (f) The trust company annually shall provide a written  
19 report to the comptroller with respect to the investments of the  
20 fund.

21       (g) The trust company shall adopt a written investment  
22 policy that is appropriate for the fund. The trust company shall  
23 present the investment policy to the investment advisory board  
24 established under Section 404.028. The investment advisory board  
25 shall submit to the trust company recommendations regarding the  
26 policy.

27       (h) The comptroller annually shall provide to the trust

1 company a forecast of the cash flows into and out of the fund. The  
2 comptroller shall provide updates to the forecasts as appropriate  
3 to ensure that the trust company is able to achieve the fund's  
4 objective specified by Subsection (c).

5 (i) The trust company shall disburse money from the fund as  
6 directed by the comptroller.

7 Sec. 403.605. TRANSFERS TO UNIVERSAL SERVICE FUND. Not  
8 later than September 15 of each year, the comptroller shall  
9 transfer from the fund to the universal service fund an amount  
10 necessary to provide the services required under Section 56.021,  
11 Utilities Code, as determined by the comptroller in consultation  
12 with the Public Utility Commission of Texas.

13 Sec. 403.606. TRANSFERS TO NEXT GENERATION 9-1-1 SERVICE  
14 FUND. Not later than September 15 of each year, the comptroller  
15 shall transfer from the fund to the next generation 9-1-1 service  
16 fund an amount equal to the difference between the fees collected  
17 under Section 771.0711(b), Health and Safety Code, during the  
18 preceding state fiscal year and the amount that would have been  
19 collected during that preceding state fiscal year if the amount of  
20 the monthly fee under Section 771.0711(b), Health and Safety Code,  
21 were 85 cents, as determined by the comptroller in consultation  
22 with the Commission on State Emergency Communications.

23 Sec. 403.607. TRANSFERS TO TEXAS EDUCATION AGENCY. Not  
24 later than September 15 of each year, the comptroller shall  
25 transfer to the commissioner of education an amount necessary to  
26 provide matching funds to schools under the federal Schools and  
27 Libraries Program ("E-rate program") as provided by 47 C.F.R. Part

1 54, Subpart F, or similar legislation providing federal funding for  
2 broadband and telecommunications initiatives, as determined by the  
3 comptroller in consultation with the Texas Education Agency.

4 Sec. 403.608. RULEMAKING. The comptroller may adopt rules  
5 as necessary to administer this subchapter.

6 SECTION 2. Section 403.502, Government Code, as added by  
7 Chapter 659 (H.B. 1505), Acts of the 87th Legislature, Regular  
8 Session, 2021, is amended by adding Subsection (b-1) to read as  
9 follows:

10 (b-1) In addition to the money transferred under Subsection  
11 (b), the comptroller may transfer to the credit of the pole  
12 replacement fund an available amount from the broadband  
13 infrastructure fund established under Section 49-d-16, Article  
14 III, Texas Constitution.

15 SECTION 3. Section 771.0713, Health and Safety Code, is  
16 amended by adding Subsection (b-1) and amending Subsection (g) to  
17 read as follows:

18 (b-1) In addition to the money transferred under Subsection  
19 (b), the comptroller may transfer to the credit of the next  
20 generation 9-1-1 service fund an available amount from the  
21 broadband infrastructure fund established under Section 49-d-16,  
22 Article III, Texas Constitution.

23 (g) This section expires September 1, 2035 [~~2025~~].

24 SECTION 4. Section 56.022, Utilities Code, is repealed.

25 SECTION 5. (a) The comptroller of public accounts shall  
26 make a one-time transfer in the amount of \$1 billion from the  
27 broadband infrastructure fund established under Section 49-d-16,

1 Article III, Texas Constitution, to the broadband development  
2 account established under Section 490I.0108, Government Code.

3 (b) The comptroller of public accounts shall make a one-time  
4 transfer in the amount of \$75 million from the broadband  
5 infrastructure fund established under Section 49-d-16, Article  
6 III, Texas Constitution, to the broadband pole replacement fund  
7 established under Section 403.502, Government Code, as added by  
8 Chapter 659 (H.B. 1505), Acts of the 87th Legislature, Regular  
9 Session, 2021.

10 (c) The comptroller of public accounts shall transfer the  
11 amounts described by Subsections (a) and (b) of this section not  
12 later than the 30th day after the effective date of this Act.

13 SECTION 6. This Act takes effect January 1, 2024, if the  
14 constitutional amendment proposed by the 88th Legislature, Regular  
15 Session, 2023, creating the broadband infrastructure fund to assist  
16 in the financing of broadband and telecommunications services  
17 projects in the state takes effect. If that amendment is not  
18 approved by the voters, this Act has no effect.