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H.B. No. 1133

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a sales and use tax refund for tangible personal  
3 property used to provide cable television service, Internet access  
4 service, or telecommunications services and to the exclusion of  
5 that property in certain economic development agreements.

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

7 SECTION 1. Subchapter H, Chapter 151, Tax Code, is amended  
8 by adding Section 151.3186 to read as follows:

9 Sec. 151.3186. PROPERTY USED IN CABLE TELEVISION, INTERNET  
10 ACCESS, OR TELECOMMUNICATIONS SERVICES. (a) In this section,  
11 "provider" means a provider of cable television service, Internet  
12 access service, or telecommunications services.

13 (b) A provider is entitled to a refund of the tax imposed by  
14 this chapter on the sale, lease, or rental or storage, use, or other  
15 consumption of tangible personal property if:

16 (1) the property is sold, leased, or rented to or  
17 stored, used, or consumed by a provider or a subsidiary of a  
18 provider; and

19 (2) the property is directly used or consumed by the  
20 provider or subsidiary described by Subdivision (1) in or during:

21 (A) the distribution of cable television  
22 service;

23 (B) the provision of Internet access service; or

24 (C) the transmission, conveyance, routing, or

1 reception of telecommunications services.

2 (c) Notwithstanding Subsection (b), property directly used  
3 or consumed in or during the provision, creation, or production of a  
4 data processing service or information service is not eligible for  
5 a refund under this section.

6 (d) The amount of the refund to which a provider or  
7 subsidiary, as described by Subsection (b)(1), is entitled under  
8 this section for a calendar year is equal to:

9 (1) the amount of the tax paid by the provider or  
10 subsidiary during the calendar year on property eligible for a  
11 refund under this section, if the total amount of tax paid by all  
12 providers and subsidiaries described by Subsection (b)(1) that are  
13 eligible for a refund under this section is not more than \$50  
14 million for the calendar year; or

15 (2) a pro rata share of \$50 million, if the total  
16 amount of tax paid by all providers and subsidiaries described by  
17 Subsection (b)(1) that are eligible for a refund under this section  
18 is more than \$50 million for the calendar year.

19 (e) The refund provided by this section does not apply to  
20 the taxes imposed under Subtitle C, Title 3.

21 SECTION 2. Section 313.021(2), Tax Code, is amended to read  
22 as follows:

23 (2) "Qualified property" means:

24 (A) land:

25 (i) that is located in an area designated as  
26 a reinvestment zone under Chapter 311 or 312 or as an enterprise  
27 zone under Chapter 2303, Government Code;

1 (ii) on which a person proposes to  
2 construct a new building or erect or affix a new improvement that  
3 does not exist before the date the person applies for a limitation  
4 on appraised value under this subchapter;

5 (iii) that is not subject to a tax abatement  
6 agreement entered into by a school district under Chapter 312; and

7 (iv) on which, in connection with the new  
8 building or new improvement described by Subparagraph (ii), the  
9 owner or lessee of, or the holder of another possessory interest in,  
10 the land proposes to:

11 (a) make a qualified investment in an  
12 amount equal to at least the minimum amount required by Section  
13 313.023; and

14 (b) create at least 25 new jobs;

15 (B) the new building or other new improvement  
16 described by Paragraph (A)(ii); and

17 (C) tangible personal property ~~[that]~~:

18 (i) that is not subject to a tax abatement  
19 agreement entered into by a school district under Chapter 312;  
20 ~~[and]~~

21 (ii) for which a sales and use tax refund is  
22 not claimed under Section 151.3186; and

23 (iii) except for new equipment described in  
24 Section 151.318(q) or (q-1), that is first placed in service in the  
25 new building or in or on the new improvement described by Paragraph  
26 (A)(ii), or on the land on which that new building or new  
27 improvement is located, if the personal property is ancillary and

1 necessary to the business conducted in that new building or in or on  
2 that new improvement.

3           SECTION 3. The change in law made by this Act does not  
4 affect tax liability accruing before the effective date of this  
5 Act. That liability continues in effect as if this Act had not been  
6 enacted, and the former law is continued in effect for the  
7 collection of taxes due and for civil and criminal enforcement of  
8 the liability for those taxes.

9           SECTION 4. This Act takes effect September 1, 2013.