

SENATE AMENDMENTS

2nd Printing

By: Ashby, Hunter, Hernandez, Bonnen,
Longoria, et al.

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;

18 (9) expanding access to broadband service in
19 economically distressed communities to support increased
20 connectivity needs in those areas and promote economic development,
21 job growth, and development of advanced mobile and
22 transportation-based broadband technology in those areas; and

23 (10) administering and enforcing this subchapter.

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

27 (b) The trust company shall hold and invest the fund, and

1 any accounts established in the fund, for and in the name of the
2 comptroller, taking into account the purposes for which money in
3 the fund may be used. The fund may be invested with the state
4 treasury pool and may be pooled with other state assets for purposes
5 of investment.

6 (c) The overall objective for the investment of the fund is
7 to maintain sufficient liquidity to meet the needs of the fund while
8 striving to preserve the purchasing power of the fund over a full
9 economic cycle.

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

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

23 (f) The trust company annually shall provide a written
24 report to the comptroller with respect to the investments of the
25 fund.

26 (g) The trust company shall adopt a written investment
27 policy that is appropriate for the fund. The trust company shall

1 present the investment policy to the investment advisory board
2 established under Section 404.028. The investment advisory board
3 shall submit to the trust company recommendations regarding the
4 policy.

5 (h) The comptroller annually shall provide to the trust
6 company a forecast of the cash flows into and out of the fund. The
7 comptroller shall provide updates to the forecasts as appropriate
8 to ensure that the trust company is able to achieve the fund's
9 objective specified by Subsection (c).

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

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

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

1 Sec. 403.607. TRANSFERS TO TEXAS EDUCATION AGENCY. Not
2 later than September 15 of each year, the comptroller shall
3 transfer to the commissioner of education an amount necessary to
4 provide matching funds to schools under the federal Schools and
5 Libraries Program ("E-rate program") as provided by 47 C.F.R. Part
6 54, Subpart F, or similar legislation providing federal funding for
7 broadband and telecommunications initiatives, as determined by the
8 comptroller in consultation with the Texas Education Agency.

9 Sec. 403.608. RULEMAKING. The comptroller may adopt rules
10 as necessary to administer this subchapter.

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

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

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

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

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

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

3 SECTION 5. (a) The comptroller of public accounts shall
4 make a one-time transfer in the amount of \$1 billion from the
5 broadband infrastructure fund established under Section 49-d-16,
6 Article III, Texas Constitution, to the broadband development
7 account established under Section 490I.0108, Government Code.

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

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

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

ADOPTED

MAY 18 2023

Lacey Law
Secretary of the Senate

By: Huffman

H.B. No. 9

Substitute the following for ___B. No. ___:

By: Juan Huffman

C.S. ___B. No. ___

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the development and funding of broadband and
3 telecommunications services.

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

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

7 SUBCHAPTER T. TEXAS BROADBAND INFRASTRUCTURE FUND

8 Sec. 403.601. DEFINITIONS. In this subchapter:

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

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

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

18 Sec. 403.602. LEGISLATIVE FINDINGS; PUBLIC PURPOSE. The
19 legislature finds that:

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

23 (2) the use of the fund is in furtherance of the public
24 purpose of expanding and ensuring access to reliable, high-speed

1 broadband and telecommunications connectivity.

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

5 (1) money transferred or deposited to the credit of
6 the fund by the constitution, general law, or the General
7 Appropriations Act;

8 (2) revenue that the legislature by general law
9 dedicates for deposit to the credit of the fund;

10 (3) investment earnings and interest earned on money
11 in the fund; and

12 (4) gifts, grants, and donations to the fund.

13 (b) The fund shall be administered by the comptroller who
14 may use money from the fund for any purpose authorized by Subsection
15 (c).

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

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

18 (2) providing funding for 9-1-1 and next generation
19 9-1-1 services under Chapter 771, Health and Safety Code;

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

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

27 (5) providing matching funds for federal money

1 provided for the Broadband Equity, Access, and Deployment Program;

2 (6) expanding access to broadband service in
3 economically distressed communities to support increased
4 connectivity needs in those areas; and

5 (7) administering and enforcing this subchapter.

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

9 (b) The trust company shall hold and invest the fund, and
10 any accounts established in the fund, for and in the name of the
11 comptroller, taking into account the purposes for which money in
12 the fund may be used. The fund may be invested with the state
13 treasury pool and may be pooled with other state assets for purposes
14 of investment.

15 (c) The overall objective for the investment of the fund is
16 to maintain sufficient liquidity to meet the needs of the fund while
17 striving to preserve the purchasing power of the fund over a full
18 economic cycle.

19 (d) The trust company has any power necessary to accomplish
20 the purposes of managing and investing the assets of the fund. In
21 managing the assets of the fund, through procedures and subject to
22 restrictions the trust company considers appropriate, the trust
23 company may acquire, exchange, sell, supervise, manage, or retain
24 any kind of investment that a prudent investor, exercising
25 reasonable care, skill, and caution, would acquire or retain in
26 light of the purposes, terms, distribution requirements, and other
27 circumstances of the fund then prevailing, taking into

1 consideration the investment of all the assets of the fund rather
2 than a single investment.

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

5 (f) The trust company annually shall provide a written
6 report to the comptroller with respect to the investments of the
7 fund.

8 (g) The trust company shall adopt a written investment
9 policy that is appropriate for the fund. The trust company shall
10 present the investment policy to the investment advisory board
11 established under Section 404.028. The investment advisory board
12 shall submit to the trust company recommendations regarding the
13 policy.

14 (h) The comptroller annually shall provide to the trust
15 company a forecast of the cash flows into and out of the fund. The
16 comptroller shall provide updates to the forecasts as appropriate
17 to ensure that the trust company is able to achieve the fund's
18 objective specified by Subsection (c).

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

21 Sec. 403.605. RULEMAKING. The comptroller may adopt rules
22 as necessary to administer this subchapter.

23 SECTION 2. This Act takes effect January 1, 2024, if the
24 constitutional amendment proposed by the 88th Legislature, Regular
25 Session, 2023, creating the broadband infrastructure fund to expand
26 high-speed broadband access and assist in the financing of
27 connectivity projects takes effect. If that amendment is not

1 approved by the voters, this Act has no effect.

ADOPTED

VV
MAY 18 2023

Lately Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: Joan Huffman

1 Amend C.S.H.B. No. 9 (senate committee report) in SECTION 1
2 of the bill, in added Section 403.604, Government Code, as follows:

3 (1) In added Subsection (b) (page 2, line 28), strike "and
4 in the name of".

5 (2) In added Subsection (d):

6 (A) On page 2, lines 37 and 38, strike "The trust
7 company has any power necessary to accomplish the purposes of
8 managing and investing the assets of the fund.".

9 (B) On page 2, lines 39 and 40, strike "through
10 procedures and subject to restrictions the trust company considers
11 appropriate,".

ADOPTED

MAY 18 2023

Robert Lee Nichols

FLOOR AMENDMENT NO. 2

Lately Spaulding
Secretary of the Senate

1 Amend C.S.H.B. No. 9 (senate committee report) in SECTION 1
2 of the bill, in added Section 403.603, Government Code (page 2,
3 between lines 23 and 24), by adding the following appropriately
4 lettered subsection:

5 (_) For the purposes of Subsection (c)(5), the comptroller:

6 (1) shall consider an applicant's potential
7 contribution toward matching the funds for federal money provided
8 for the Broadband Equity, Access, and Deployment Program; and

9 (2) may only provide state matching funds if a state
10 contribution is necessary for the economic feasibility of a
11 proposed project.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 19, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB9 by Ashby (Relating to the development and funding of broadband and telecommunications services.), **As Passed 2nd House**

The fiscal impact of the bill cannot be determined due to the unknown amounts and timing of any transfers to the new Broadband Infrastructure Fund and expenditures from the fund.

The bill would amend Government Code Chapter 403, adding Subchapter T regarding the Texas Broadband Infrastructure Fund (BIF).

The BIF, created by House Joint Resolution 125, would be administered by the Comptroller and would consist of transfers or deposits by the constitution, general law, or the General Appropriations Act. It would also consist of dedicated revenue, investment and interest earnings, and any gifts, grants, or donations to the fund. The Texas Treasury Safekeeping Trust Company would actively manage the BIF, maintaining liquidity to meet the needs and preserve the purchasing power of the fund.

Money in the BIF could only be used for purposes of expanding broadband and telecommunications across the state, per Government Code Chapter 490I. This would include providing funding for the 9-1-1 and Next Generation 9-1-1 services, the Pole Replacement Program, matching funds for federal money for the Broadband Equity, Access, and Deployment (BEAD) Program, and expanding access to broadband services in economically distressed communities.

The provisions of the bill would take effect on January 1, 2024, only if the constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, creating the broadband infrastructure fund to assist in the financing of broadband and telecommunications services projects in the state takes effect.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time.

Source Agencies: 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 477 Commission on State Emergency Communications, 701 Texas Education Agency

LBB Staff: JMc, CMA, LCO, CSmi, KK, SMAT, NV

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 16, 2023

TO: Honorable Joan Huffman, Chair, Senate Committee on Finance

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB9 by Ashby (relating to the development and funding of broadband and telecommunications services.), **Committee Report 2nd House, Substituted**

<p>The fiscal impact of the bill cannot be determined due to the unknown amounts and timing of any transfers to the new Broadband Infrastructure Fund and expenditures from the fund.</p>

The bill would amend Government Code Chapter 403, adding Subchapter T regarding the Texas Broadband Infrastructure Fund (BIF).

The BIF, created by House Joint Resolution 125, would be administered by the Comptroller and would consist of transfers or deposits by the constitution, general law, or the General Appropriations Act. It would also consist of dedicated revenue, investment and interest earnings, and any gifts, grants, or donations to the fund. The Texas Treasury Safekeeping Trust Company would actively manage the BIF, maintaining liquidity to meet the needs and preserve the purchasing power of the fund.

Money in the BIF could only be used for purposes of expanding broadband and telecommunications across the state, per Government Code Chapter 490I. This would include providing funding for the 9-1-1 and Next Generation 9-1-1 services, the Pole Replacement Program, matching funds for federal money for the Broadband Equity, Access, and Deployment (BEAD) Program, and expanding access to broadband services in economically distressed communities.

The provisions of the bill would take effect on January 1, 2024, only if the constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, creating the broadband infrastructure fund to assist in the financing of broadband and telecommunications services projects in the state takes effect.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

The fiscal implications of the bill cannot be determined at this time.

Source Agencies: 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 477 Commission on State Emergency Communications, 701 Texas Education Agency

LBB Staff: JMc, KK, LCO, CSmi, SMAT, NV

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 12, 2023

TO: Honorable Joan Huffman, Chair, Senate Committee on Finance

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB9 by Ashby (Relating to the development and funding of broadband and telecommunications services; providing for transfers of money for funding.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB9, As Engrossed : an impact of \$0 through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	\$0
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable (Cost) from <i>Texas Broadband Infrastructure Fund</i>	Probable Revenue Gain from <i>Next Gen 9-1-1 Svc Fund 195</i>	Probable Revenue Gain from <i>Texas Education Agency</i>	Probable Revenue Gain from <i>Broadband Development 5187</i>
2024	(\$1,075,000,000)	\$0	\$0	\$1,000,000,000
2025	(\$489,460,000)	\$109,460,000	\$150,000,000	\$0
2026	(\$494,386,000)	\$114,386,000	\$150,000,000	\$0
2027	(\$499,533,000)	\$119,533,000	\$150,000,000	\$0
2028	(\$504,912,000)	\$124,912,000	\$150,000,000	\$0

<i>Fiscal Year</i>	Probable Revenue Gain from <i>Broadband Pole Replcmt Fnd 188</i>	Probable Revenue Gain from <i>Texas Universal Service Fund</i>
2024	\$75,000,000	
2025	\$0	\$230,000,000
2026	\$0	\$230,000,000
2027	\$0	\$230,000,000
2028	\$0	\$230,000,000

Fiscal Analysis

The bill would amend Government Code Chapter 403, adding Subchapter T regarding the Texas Broadband Infrastructure Fund (BIF).

The BIF, created by House Joint Resolution 125, would be administered by the Comptroller and would consist of appropriations, transfers, dedicated revenue, investment and interest earnings, gifts, grants, and donations. The Texas Treasury Safekeeping Trust Company would actively manage the BIF, maintaining liquidity to meet the needs and preserve the purchasing power of the fund.

Money in the BIF could only be used for purposes of expanding broadband and telecommunications across the state, per Government Code Chapter 490I. This would include providing funding for the Texas Universal Service Fund (TUSF), 9-1-1 and Next Generation 9-1-1 services, the Pole Replacement Program, matching funds for federal money for the Broadband Equity, Access, and Deployment (BEAD) Program, and supporting increased connectivity needs for qualifying schools under the federal Schools and Libraries (E-rate) Program.

The bill would require the Comptroller to transfer to the TUSF from the BIF, amounts necessary to provide the services required of the TUSF, as determined by the Comptroller in consultation with the Public Utilities Commission (PUC).

The bill would require the Comptroller to transfer to the Next Generation 9-1-1 Service Fund No. 0195 from the BIF, an amount equal to the difference between fees collected under 771.0711(b) Health and Safety Code (i.e. the emergency service fee for wireless telecommunications collections), and the amount that would have been collected if the fee had been 85 cents a month for each wireless telecommunications connection from subscribers.

The bill would require the Comptroller to transfer to the Commissioner of Education an amount necessary to match federal funding for the Schools and Libraries Program. The amount would be determined by the Comptroller in consultation with the Texas Education Agency.

The bill would authorize the Comptroller to transfer additional available amounts in the BIF to the Pole Replacement Fund or the Next Generation 9-1-1 Service Fund.

The bill would require the Comptroller to make a one-time transfer from the BIF, \$1,000,000,000 to the Broadband Development Account and \$75,000,000 to the Pole Replacement Fund.

The provisions of the bill would take effect on January 1, 2024, only if the constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, creating the broadband infrastructure fund to assist in the financing of broadband and telecommunications services projects in the state takes effect.

Methodology

The Comptroller estimates that \$1,564,460,000 would be transferred out of the BIF during the 2024-25 biennium. This includes one-time transfers to the Pole Replacement Fund and the Broadband Development Account in fiscal year 2024, and transfers in fiscal year 2025 to the Next Generation 9-1-1 Service Fund, the Commissioner of Education, and the TUSF. Estimates are based on the 2024-25 Biennial Revenue Estimate, and estimates from PUC and TEA.

It is assumed that \$109,460,000 would be deposited to Fund 195, Next Generation 9-1-1 Service Fund during the 2024-25 biennium, under the provisions of the bill that direct a transfer to the fund in the amount of the difference between the fees collected under Section 771.0711(b), Health and Safety Code, during the preceding state fiscal year, currently 50 cents per line, and the amount that would have been collected if the amount of the monthly fee was 85 cents. According to the Commission on State Emergency Communications, of these amounts, about \$16 million would be available to support regional planning commissions in the statewide 9-1-1 program.

It is assumed that \$150,000,000 would be transferred to the Commissioner of Education to support a Broadband Matching Grant program administered by TEA under the provision of the bill that direct a transfer to the Commissioner in an amount necessary to provide matching funds to the schools under the federal Schools and Libraries Program. This estimate is based on statistics on unserved and underserved families collected for

Operation Connectivity during the pandemic. Approximately 2.1 million families fall into these categories.

It is assumed that \$230,000,000 would be transferred to the TUSF under the provision of the bill that directs a transfer in an amount necessary to provide the services required under Section 56.021, Utilities Code. The Small and Rural Incumbent Local Exchange Carrier (ILEC) and the Texas High Cost Universal Service Plan (THCUSP) make up the bulk of the cost with each program costing \$7.7 million and \$6.7 million respectively each month.

It is assumed that any administrative or technology costs associated with implementing the bill could be absorbed using existing resources.

It is assumed that the fiscal impact is determined by the required transfers outlined in the bill, and that no other amounts would be appropriated to the BIF. Because future appropriations, transfers, and revenues associated with the BIF, as well as any gifts, grants, or donations are unknown, the total fiscal impact as a result of administering the BIF cannot be determined.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

According to the Commission on State Emergency Communications, out of amounts transferred to the Next Generation 9-1-1 Service Fund, about \$94 million would be distributed to local emergency communications districts (ECDs). No other local impact is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 477 Commission on State Emergency Communications, 701 Texas Education Agency

LBB Staff: JMc, KK, LCO, CSmi, SMAT, NV

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 10, 2023

TO: Honorable Todd Hunter, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB9 by Ashby (relating to the development and funding of broadband and telecommunications services; providing for transfers of money for funding.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB9, Committee Report 1st House, Substituted : an impact of \$0 through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to <i>General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	\$0
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable (Cost) from <i>Texas Broadband Infrastructure Fund</i>	Probable Revenue Gain from <i>Next Gen 9-1-1 Svc Fund</i> 195	Probable Revenue Gain from <i>Texas Education Agency</i>	Probable Revenue Gain from <i>Broadband Development</i> 5187
2024	(\$1,075,000,000)	\$0	\$0	\$1,000,000,000
2025	(\$489,460,000)	\$109,460,000	\$150,000,000	\$0
2026	(\$494,386,000)	\$114,386,000	\$150,000,000	\$0
2027	(\$499,533,000)	\$119,533,000	\$150,000,000	\$0
2028	(\$504,912,000)	\$124,912,000	\$150,000,000	\$0

<i>Fiscal Year</i>	Probable Revenue Gain from <i>Broadband Pole Replcmt Fnd</i> 188	Probable Revenue Gain from <i>Texas Universal Service Fund</i>
2024	\$75,000,000	
2025	\$0	\$230,000,000
2026	\$0	\$230,000,000
2027	\$0	\$230,000,000
2028	\$0	\$230,000,000

Fiscal Analysis

The bill would amend Government Code Chapter 403, adding Subchapter T regarding the Texas Broadband Infrastructure Fund (BIF).

The BIF, created by House Joint Resolution 125, would be administered by the Comptroller and would consist of appropriations, transfers, dedicated revenue, investment and interest earnings, gifts, grants, and donations. The Texas Treasury Safekeeping Trust Company would actively manage the BIF, maintaining liquidity to meet the needs and preserve the purchasing power of the fund.

Money in the BIF could only be used for purposes of expanding broadband and telecommunications across the state, per Government Code Chapter 490I. This would include providing funding for the Texas Universal Service Fund (TUSF), 9-1-1 and Next Generation 9-1-1 services, the Pole Replacement Program, matching funds for federal money for the Broadband Equity, Access, and Deployment (BEAD) Program, and supporting increased connectivity needs for qualifying schools under the federal Schools and Libraries (E-rate) Program.

The bill would require the Comptroller to transfer to the TUSF from the BIF, amounts necessary to provide the services required of the TUSF, as determined by the Comptroller in consultation with the Public Utilities Commission (PUC).

The bill would require the Comptroller to transfer to the Next Generation 9-1-1 Service Fund No. 0195 from the BIF, an amount equal to the difference between fees collected under 771.0711(b) Health and Safety Code (i.e. the emergency service fee for wireless telecommunications collections), and the amount that would have been collected if the fee had been 85 cents a month for each wireless telecommunications connection from subscribers.

The bill would require the Comptroller to transfer to the Commissioner of Education an amount necessary to match federal funding for the Schools and Libraries Program. The amount would be determined by the Comptroller in consultation with the Texas Education Agency.

The bill would authorize the Comptroller to transfer additional available amounts in the BIF to the Pole Replacement Fund or the Next Generation 9-1-1 Service Fund.

The bill would require the Comptroller to make a one-time transfer from the BIF, \$1,000,000,000 to the Broadband Development Account and \$75,000,000 to the Pole Replacement Fund.

The provisions of the bill would take effect on January 1, 2024, only if the constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, creating the broadband infrastructure fund to assist in the financing of broadband and telecommunications services projects in the state takes effect.

Methodology

The Comptroller estimates that \$1,564,460,000 would be transferred out of the BIF during the 2024-25 biennium. This includes one-time transfers to the Pole Replacement Fund and the Broadband Development Account in fiscal year 2024, and transfers in fiscal year 2025 to the Next Generation 9-1-1 Service Fund, the Commissioner of Education, and the TUSF. Estimates are based on the 2024-25 Biennial Revenue Estimate, and estimates from PUC and TEA.

It is assumed that \$109,460,000 would be deposited to Fund 195, Next Generation 9-1-1 Service Fund during the 2024-25 biennium, under the provisions of the bill that direct a transfer to the fund in the amount of the difference between the fees collected under Section 771.0711(b), Health and Safety Code, during the preceding state fiscal year, currently 50 cents per line, and the amount that would have been collected if the amount of the monthly fee was 85 cents. According to the Commission on State Emergency Communications, of these amounts, about \$16 million would be available to support regional planning commissions in the statewide 9-1-1 program.

It is assumed that \$150,000,000 would be transferred to the Commissioner of Education to support a Broadband Matching Grant program administered by TEA under the provision of the bill that direct a transfer to the Commissioner in an amount necessary to provide matching funds to the schools under the federal Schools and Libraries Program. This estimate is based on statistics on unserved and underserved families collected for

Operation Connectivity during the pandemic. Approximately 2.1 million families fall into these categories.

It is assumed that \$230,000,000 would be transferred to the TUSF under the provision of the bill that directs a transfer in an amount necessary to provide the services required under Section 56.021, Utilities Code. The Small and Rural Incumbent Local Exchange Carrier (ILEC) and the Texas High Cost Universal Service Plan (THCUSP) make up the bulk of the cost with each program costing \$7.7 million and \$6.7 million respectively each month.

It is assumed that any administrative or technology costs associated with implementing the bill could be absorbed using existing resources.

It is assumed that the fiscal impact is determined by the required transfers outlined in the bill, and that no other amounts would be appropriated to the BIF. Because future appropriations, transfers, and revenues associated with the BIF, as well as any gifts, grants, or donations are unknown, the total fiscal impact as a result of administering the BIF cannot be determined.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

According to the Commission on State Emergency Communications, out of amounts transferred to the Next Generation 9-1-1 Service Fund, about \$94 million would be distributed to local emergency communications districts (ECDs). No other local impact is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 477 Commission on State Emergency Communications, 701 Texas Education Agency

LBB Staff: JMc, SMAT, LCO, CSmi, NV

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

Revision 1

March 29, 2023

TO: Honorable Todd Hunter, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB9 by Ashby (Relating to the development and funding of broadband and telecommunications services; making an appropriation.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB9, As Introduced : a negative impact of (\$436,285,000) through the biennium ending August 31, 2025.

In addition, the bill would result in a negative impact to General Revenue Related Funds of (\$4,833,474,000) in the biennium ending August 31, 2027.

Appropriations:

<i>Fiscal Year</i>	<i>Appropriation out of Economic Stabilization Fund 599</i>
2024	\$5,000,000,000
2025	\$0

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	\$0
2025	(\$436,285,000)
2026	(\$3,976,584,000)
2027	(\$856,890,000)
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Revenue Gain/(Loss) from Broadband Infrastructure Fund</i>	<i>Probable Revenue Gain/(Loss) from General Revenue Fund 1</i>	<i>Probable Revenue Gain/(Loss) from Economic Stabilization Fund 599</i>	<i>Probable Revenue Gain/(Loss) from Comm State Emer Comm Acct 5007</i>
2024	\$5,000,000,000	\$0	(\$5,101,018,000)	(\$13,015,000)
2025	\$0	(\$436,285,000)	(\$189,059,000)	(\$22,624,000)
2026	\$0	(\$3,976,584,000)	\$431,161,000	(\$22,941,000)
2027	\$0	(\$856,890,000)	\$3,875,191,000	(\$23,262,000)
2028	\$0	\$0	\$692,487,000	(\$23,588,000)

<i>Fiscal Year</i>	Probable Revenue Gain/(Loss) from 911 Service Fees 5050
2024	(\$16,070,000)
2025	(\$27,549,000)
2026	(\$27,549,000)
2027	(\$27,549,000)
2028	(\$27,549,000)

Fiscal Analysis

The bill would amend Chapter 403 of the Government Code to add Subchapter T, regarding the Texas Broadband Infrastructure Fund (BIF).

The bill would create the BIF in the treasury outside of General Revenue. The fund would be administered by the Comptroller's office and would consist of legislative appropriations, fees or other sources of dedicated revenue, interest earned or deposited, and gifts, grants, and donations. Money in the fund could be used only for purposes of creating and updating the state broadband map and state broadband plan; administering the broadband development grant program; engaging in outreach regarding broadband; fully funding the universal service fund; funding 9-1-1 and next generation 9-1-1 services; depositing money to the credit of the broadband pole replacement fund; providing matching funds for the federal Broadband Equity, Access, and Deployment program; supporting the federal Schools and Libraries program or similar programs; improving safety telecommunication connectivity; and administering the subchapter.

The bill would suspend the imposition of fees and surcharges under Health and Safety Code Sections 771.071 (9-1-1 emergency service fee), 771.0711 (wireless 9-1-1 emergency service fee), 771.0712 (prepaid wireless 9-1-1 emergency service fee), and 771.072 (equalization surcharge) while funding for 9-1-1 and next generation 9-1-1 services would be provided for under the provisions of this bill.

The bill would eliminate the uniform charge for the Texas Universal Service Fund.

The bill would direct the comptroller to deposit \$5 billion from the Economic Stabilization Fund to the Broadband Infrastructure Fund within 30 days after the bill takes effect.

Methodology

The fiscal impacts in the table below are based on the 2024-25 Biennial Revenue Estimate (BRE) and the fiscal implications of SB 30, as engrossed. (Supplemental appropriations as provided by SB 30 will materially affect the ESF balance, related reserves and transfers of severance tax revenue, and interest and investment earnings.)

The \$5 billion appropriation from the ESF for deposit to the BIF would decrease the ESF balance and result in a larger severance tax transfer to the ESF in fiscal 2026 and fiscal 2027 than assumed in the BRE, as adjusted for the effects of SB 30 on the ESF balance. General Revenue Fund implications in fiscal years 2025 and 2026 shown represent the increase in reserves for severance taxes transferred to the ESF as a result of a decrease in the ESF balance.

Implications to the ESF represent the net difference between appropriations from the ESF and increased severance taxes transferred to the fund in fiscal 2026 -27, and consequent changes to ESF interest and investment earnings.

The revenue loss to GR Account 5007 – Commission on State Emergency Communications and GR Account 5050 – 9-1-1 Service Fees is based on estimates in the (BRE) and adjusted for fiscal 2024 based on the effective date of the bill.

In addition to the \$5 billion transfer to the BIF, there would be a revenue gain to the fund from earned interest on the fund balance. As the timing of expenditures from the fund is unknown, the amount of interest revenue

cannot be estimated.

The uniform charge for the Texas Universal Service Fund is deposited to a fund held outside the state treasury; therefore, the repeal of the uniform charge would have no state revenue implications.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas

LBB Staff: JMc, SMAT, LCO, CSmi, SD

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 29, 2023

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General Revenue-Related Funds, Five- Year Impact:

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2024	(\$16,070,000)
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