

By: Ashby

H.B. No. 2838

A BILL TO BE ENTITLED

AN ACT

relating to increasing access to and reducing taxation of Internet services.

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

SECTION 1. Section 403.553(o), Government Code, is amended to read as follows:

(o) Not later than November 1 of each year [~~the 60th day after the date the pole replacement fund receives money for the pole replacement program~~], the comptroller shall [~~maintain and~~] publish on the comptroller's Internet website:

(1) statistics on the number of applications received, processed, and rejected by the program in the preceding state fiscal year;

(2) statistics on the size, number, and status of reimbursements awarded by the program in the preceding state fiscal year, including the retail broadband service providers and pole owners receiving reimbursements; and

(3) the estimated amount of money available for grants from the program as of the last day of the preceding state fiscal year [~~remaining in the pole replacement fund~~].

SECTION 2. Section 490I.0101(a), Government Code, is amended to read as follows:

(a) For purposes of this chapter, subject to Subsection (b), "broadband service" means Internet service with the capability of

1 providing a:

2 (1) speed of not less than 100 [~~25~~] megabits per second
3 for a download;

4 (2) speed of not less than 20 [~~three~~] megabits per
5 second for an upload; and

6 (3) network round-trip latency of less than or equal
7 to 100 milliseconds based on the 95th percentile of speed
8 measurements.

9 SECTION 3. Sections [490I.0105](#)(a), (c), (f), and (g),
10 Government Code, are amended to read as follows:

11 (a) The broadband development office shall create, update
12 annually, and publish on the comptroller's Internet website a map
13 classifying each broadband serviceable location in this state as:

14 (1) an unserved location if the location:

15 (A) does not have access to reliable broadband
16 service capable of providing [~~the~~] speeds matching standards
17 adopted by the Federal Communications Commission if required by the
18 comptroller under Section [490I.0101](#)(b), or if the comptroller has
19 not exercised the comptroller's authority under that subsection,
20 speeds described by Section [490I.0101](#)(a); or

21 (B) is a public school or community anchor
22 institution and does not have access to reliable broadband service
23 capable of providing symmetrical upload and download speeds of at
24 least one gigabit per second with a network round-trip latency of
25 less than or equal to 100 milliseconds based on the 95th percentile
26 of speed measurements;

27 (2) an underserved location if the location is not an

1 unserved location but does not have access to reliable broadband
2 service with the capability of providing:

3 (A) a speed of not less than 250 [~~100~~] megabits
4 per second for a download;

5 (B) a speed of not less than 20 megabits per
6 second for an upload; and

7 (C) a network round-trip latency of less than or
8 equal to 100 milliseconds based on the 95th percentile of speed
9 measurements; or

10 (3) a served location if the location is neither an
11 unserved nor an underserved location.

12 (c) The [~~After creation of the initial map described in~~
13 ~~Subsection (a), the~~] office may evaluate the usefulness of the
14 standards for unserved and underserved locations outlined in
15 Subsection (a) and, if appropriate, make a recommendation to the
16 legislature to revise the standards.

17 (f) The [~~Except as provided by Subsection (g), the~~] office
18 shall use the best available data, including information available
19 from the Federal Communications Commission, to create or update the
20 map.

21 (q) The office is not required to create, update, or publish
22 a map under this section if the office adopts a map produced by the
23 Federal Communications Commission [~~produces a map~~] that[+]

24 [~~(1)~~] enables the office to identify unserved,
25 underserved, and served locations [~~eligible and ineligible areas,~~]
26 as described by Subsection (a) [~~, and~~

27 [~~(2) meets the requirements of Subsection (d)~~].

1 SECTION 4. Sections 490I.0106(a), (a-1), (a-2), (a-3), (b),
2 (d), and (f), Government Code, are amended to read as follows:

3 (a) The broadband development office shall establish a
4 program to award grants, low-interest loans, and other financial
5 incentives [~~to applicants~~] for the purpose of expanding access to
6 and adoption of broadband service.

7 (a-1) The office may award grants, low-interest loans, and
8 other financial incentives [~~to applicants~~] for eligible broadband
9 infrastructure projects designed to provide qualifying broadband
10 service to unserved and underserved locations. For the purposes of
11 this subsection, an eligible broadband infrastructure project
12 includes a project in which not less than 80 percent of the
13 broadband serviceable locations to be served by the project are
14 unserved and underserved locations.

15 (a-2) The office may award grants, low-interest loans, and
16 other financial incentives [~~to applicants~~] for middle-mile
17 broadband infrastructure projects.

18 (a-3) The office may award grants, low-interest loans, and
19 other financial incentives [~~to applicants~~] for projects not
20 involving the deployment of broadband infrastructure that expand
21 the accessibility, affordability, or adoption of broadband
22 service, including education, training, community outreach, remote
23 learning or telehealth facilities, equipment purchases, or any
24 other use permitted by the applicable funding source.

25 (b) The office shall establish eligibility and award
26 criteria for making awards under this chapter for each applicable
27 notice of funds availability. The comptroller by rule may

1 prescribe the manner in which the office shall provide notice [~~to~~
2 ~~applicants~~] of the applicable criteria. In establishing
3 eligibility and award criteria, the office shall:

4 (1) take into consideration grants and other financial
5 incentives awarded by the federal government for the deployment of
6 broadband service;

7 (2) prioritize the applications [~~of applicants~~] that
8 will expand access to and adoption of broadband service in
9 designated areas in which the highest percentage of broadband
10 serviceable locations are unserved or underserved locations;

11 (3) prioritize the applications [~~of applicants~~] that
12 will expand access to broadband service in public and private
13 primary and secondary schools and institutions of higher education;

14 (4) give preference to an applicant that provided the
15 information requested by the office under Section [~~490I.0105 or~~
16 [490I.01061](#)]; and

17 (5) take into consideration whether an applicant has
18 forfeited federal funding for defaulting on a project to deploy
19 qualifying broadband service.

20 (d) The office may not:

21 (1) except as provided by Section [490I.01062](#), favor a
22 particular broadband technology in awarding grants, loans, or other
23 financial incentives;

24 (2) award a grant, loan, or other financial incentive
25 to a noncommercial provider of broadband service for a broadband
26 serviceable location if an eligible commercial provider of
27 broadband service has submitted an application for the same

1 location;

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

6 (4) except as provided by Section 490I.01061, award a
7 grant, loan, or other financial incentive for deployment of
8 last-mile broadband service for a location that is subject to an
9 existing [a] federal commitment to deploy qualifying broadband
10 service on the date the application is submitted or during the
11 application process.

12 (f) During the 30-day posting period described by
13 Subsection (e) for an application, the office shall accept from any
14 interested party, other than a broadband service provider that does
15 not report information requested by the office under Section
16 [~~490I.0105~~ or] 490I.01061, a written protest of an [~~the~~]
17 application submitted for a grant, loan, or other financial
18 incentive under Subsection (a-1) relating to whether the
19 broadband-serviceable locations contained in the application are
20 eligible to receive funding [~~applicant or project is eligible for~~
21 ~~an award or should not receive an award based on the criteria~~
22 ~~prescribed by the office)].~~

23 SECTION 5. Sections 151.00394(b) and (c), Tax Code, are
24 amended to read as follows:

25 (b) "Internet access service" does not include [~~and the~~
26 ~~exemption under Section 151.325 does not apply to~~] any [~~other~~]
27 taxable service listed in Section 151.0101(a), unless the taxable

1 service is provided in conjunction with and is merely incidental to
2 the provision of Internet access service.

3 (c) [~~On and after October 1, 1999,~~] "Internet access
4 service" is not included in the definitions of "data processing
5 service" and "information service."

6 SECTION 6. Section 151.0101(a), Tax Code, is amended to
7 read as follows:

8 (a) "Taxable services" means:

- 9 (1) amusement services;
- 10 (2) cable television services;
- 11 (3) personal services;
- 12 (4) motor vehicle parking and storage services;
- 13 (5) the repair, remodeling, maintenance, and
14 restoration of tangible personal property, except:
 - 15 (A) aircraft;
 - 16 (B) a ship, boat, or other vessel, other than:
 - 17 (i) a taxable boat or motor as defined by
18 Section 160.001;
 - 19 (ii) a sports fishing boat; or
 - 20 (iii) any other vessel used for pleasure;
 - 21 (C) the repair, maintenance, and restoration of a
22 motor vehicle; and
 - 23 (D) the repair, maintenance, creation, and
24 restoration of a computer program, including its development and
25 modification, not sold by the person performing the repair,
26 maintenance, creation, or restoration service;
- 27 (6) telecommunications services;

1 (7) credit reporting services;
2 (8) debt collection services;
3 (9) insurance services;
4 (10) information services;
5 (11) real property services;
6 (12) data processing services;
7 (13) real property repair and remodeling;
8 (14) security services;
9 (15) telephone answering services; and
10 (16) [~~Internet access service; and~~
11 [~~(17)~~] a sale by a transmission and distribution
12 utility, as defined in Section 31.002, Utilities Code, of
13 transmission or delivery of service directly to an electricity
14 end-use customer whose consumption of electricity is subject to
15 taxation under this chapter.

16 SECTION 7. Section 171.10132, Tax Code, is amended by
17 amending Subsection (a) and adding Subsection (a-1) to read as
18 follows:

19 (a) In this section, "qualifying broadband grant" means a
20 grant for broadband deployment in this state received by a taxable
21 entity:

22 (1) under the Broadband Equity, Access, and Deployment
23 Program established under 47 U.S.C. Section 1702;

24 (2) under the State Digital Equity Capacity Grant
25 Program established under 47 U.S.C. Section 1723;

26 (3) under the Digital Equity Competitive Grant Program
27 established under 47 U.S.C. Section 1724;

1 (4) under the provisions of 47 U.S.C. Section 1741
2 providing for middle mile grants;

3 (5) under the broadband loan and grant pilot program
4 authorized under Section 779, Title VII, Div. A, Consolidated
5 Appropriations Act, 2018 (Pub. L. No. 115-141, 132 Stat. 399), from
6 funds made available for that program under the heading "Distance
7 Learning, Telemedicine, and Broadband Program," "Rural Utilities
8 Service," "Rural Development Programs" in Title I, Infrastructure
9 Investments and Jobs Appropriations Act (Title I, Div. J, Pub. L.
10 No. 117-58, 135 Stat. 1351);

11 (6) under Section 905, Division N, Consolidated
12 Appropriations Act, 2021 (Pub. L. No. 116-260, 134 Stat. 2136);
13 [~~or~~]

14 (7) from a state, territory, tribal government, or
15 unit of local government to the extent the grant was:

16 (A) funded by amounts provided under 42 U.S.C.
17 Section 802, 803, or 804; and

18 (B) provided for the stated purposes of making
19 investments in broadband infrastructure; or

20 (8) from the comptroller under Subchapter S, Chapter
21 403, Government Code, or Chapter 490I of that code.

22 (a-1) For purposes of Subsection (a)(8), a reimbursement
23 award received by a taxable entity under Subchapter S, Chapter 403,
24 Government Code, is considered a grant for broadband development in
25 this state.

26 SECTION 8. The following provisions are repealed:

27 (1) Chapter 490H, Government Code;

1 (2) Sections [490I.0105](#)(g), (h), (i), (j), (k), (l),
2 (n), (o), and (p), Government Code; and

3 (3) Section [151.325](#), Tax Code.

4 SECTION 9. The changes in law made by this Act do not affect
5 tax liability accruing before the effective date of this Act. That
6 liability continues in effect as if this Act had not been enacted,
7 and the former law is continued in effect for the collection of
8 taxes due and for civil and criminal enforcement of the liability
9 for those taxes.

10 SECTION 10. Section [171.10132](#), Tax Code, as amended by this
11 Act, applies only to a report originally due on or after January 1,
12 2026.

13 SECTION 11. This Act takes effect July 1, 2025, if it
14 receives a vote of two-thirds of all the members elected to each
15 house, as provided by Section [39](#), Article III, Texas Constitution.
16 If this Act does not receive the vote necessary for effect on that
17 date, this Act takes effect September 1, 2025.