

1-1 By: Nichols, Hagenbuch S.B. No. 1405
1-2 (In the Senate - Filed February 19, 2025; March 6, 2025,
1-3 read first time and referred to Committee on Business & Commerce;
1-4 April 7, 2025, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 11, Nays 0; April 7, 2025,
1-6 sent to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Schwertner	X			
1-10	King	X			
1-11	Blanco	X			
1-12	Campbell	X			
1-13	Creighton	X			
1-14	Johnson	X			
1-15	Kolkhorst	X			
1-16	Menéndez	X			
1-17	Middleton	X			
1-18	Nichols	X			
1-19	Zaffirini	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 1405 By: Nichols

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to increasing access to and reducing taxation of Internet
1-24 services.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 403.553(o), Government Code, is amended
1-27 to read as follows:

1-28 (o) Not later than November 1 of each year ~~[the 60th day~~
1-29 ~~after the date the pole replacement fund receives money for the pole~~
1-30 ~~replacement program]~~, the comptroller shall ~~[maintain and]~~ publish
1-31 on the comptroller's Internet website:

1-32 (1) statistics on the number of applications received,
1-33 processed, and rejected by the program in the preceding state
1-34 fiscal year;

1-35 (2) statistics on the size, number, and status of
1-36 reimbursements awarded by the program in the preceding state fiscal
1-37 year, including the retail broadband service providers and pole
1-38 owners receiving reimbursements; and

1-39 (3) the estimated amount of money available for grants
1-40 from the program as of the last day of the preceding state fiscal
1-41 year ~~[remaining in the pole replacement fund]~~.

1-42 SECTION 2. Section 4901.0101(a), Government Code, is
1-43 amended to read as follows:

1-44 (a) For purposes of this chapter, subject to Subsection (b),
1-45 "broadband service" means Internet service with the capability of
1-46 providing a:

1-47 (1) speed of not less than 100 ~~[25]~~ megabits per second
1-48 for a download;

1-49 (2) speed of not less than 20 ~~[three]~~ megabits per
1-50 second for an upload; and

1-51 (3) network round-trip latency of less than or equal
1-52 to 100 milliseconds based on the 95th percentile of speed
1-53 measurements.

1-54 SECTION 3. Sections 4901.0105(a), (c), (f), and (q),
1-55 Government Code, are amended to read as follows:

1-56 (a) The broadband development office shall create, update
1-57 annually, and publish on the comptroller's Internet website a map
1-58 classifying each broadband serviceable location in this state as:

1-59 (1) an unserved location if the location:
1-60 (A) does not have access to reliable broadband

service capable of providing ~~[the]~~ speeds matching standards adopted by the Federal Communications Commission if required by the comptroller under Section 490I.0101(b), or if the comptroller has not exercised the comptroller's authority under that subsection, speeds described by Section 490I.0101(a); or

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

(2) an underserved location if the location is not an unserved location but does not have access to reliable broadband service with the capability of providing:

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

(B) a speed of not less than 25 ~~[20]~~ megabits per second for an upload; and

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

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

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

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

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

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

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

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

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

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

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

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

(b) The office shall establish eligibility and award criteria for making awards under this chapter for each applicable notice of funds availability. The comptroller by rule may prescribe the manner in which the office shall provide notice ~~[to applicants]~~ of the applicable criteria. In establishing eligibility and award criteria, the office shall:

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

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

(3) 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;

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

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

(d) The office may not:

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

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

(3) 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; or

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

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

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

(b) "Internet access service" does not include ~~[and the exemption under Section 151.325 does not apply to]~~ any ~~[other]~~ taxable service listed in Section 151.0101(a), unless the taxable service is provided in conjunction with and is merely incidental to the provision of Internet access service.

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

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

(a) "Taxable services" means:

(1) amusement services;
 (2) cable television services;
 (3) personal services;
 (4) motor vehicle parking and storage services;
 (5) the repair, remodeling, maintenance, and restoration of tangible personal property, except:

(A) aircraft;
 (B) a ship, boat, or other vessel, other than:
 (i) a taxable boat or motor as defined by Section 160.001;

4-1 (ii) a sports fishing boat; or
 4-2 (iii) any other vessel used for pleasure;
 4-3 (C) the repair, maintenance, and restoration of a
 4-4 motor vehicle; and
 4-5 (D) the repair, maintenance, creation, and
 4-6 restoration of a computer program, including its development and
 4-7 modification, not sold by the person performing the repair,
 4-8 maintenance, creation, or restoration service;
 4-9 (6) telecommunications services;
 4-10 (7) credit reporting services;
 4-11 (8) debt collection services;
 4-12 (9) insurance services;
 4-13 (10) information services;
 4-14 (11) real property services;
 4-15 (12) data processing services;
 4-16 (13) real property repair and remodeling;
 4-17 (14) security services;
 4-18 (15) telephone answering services; and
 4-19 (16) ~~[Internet access service; and~~
 4-20 ~~[(17)]~~ a sale by a transmission and distribution
 4-21 utility, as defined in Section 31.002, Utilities Code, of
 4-22 transmission or delivery of service directly to an electricity
 4-23 end-use customer whose consumption of electricity is subject to
 4-24 taxation under this chapter.

4-25 SECTION 7. Section 171.10132, Tax Code, is amended by
 4-26 amending Subsection (a) and adding Subsection (a-1) to read as
 4-27 follows:

4-28 (a) In this section, "qualifying broadband grant" means a
 4-29 grant for broadband deployment in this state received by a taxable
 4-30 entity:

4-31 (1) under the Broadband Equity, Access, and Deployment
 4-32 Program established under 47 U.S.C. Section 1702;

4-33 (2) under the State Digital Equity Capacity Grant
 4-34 Program established under 47 U.S.C. Section 1723;

4-35 (3) under the Digital Equity Competitive Grant Program
 4-36 established under 47 U.S.C. Section 1724;

4-37 (4) under the provisions of 47 U.S.C. Section 1741
 4-38 providing for middle mile grants;

4-39 (5) under the broadband loan and grant pilot program
 4-40 authorized under Section 779, Title VII, Div. A, Consolidated
 4-41 Appropriations Act, 2018 (Pub. L. No. 115-141, 132 Stat. 399), from
 4-42 funds made available for that program under the heading "Distance
 4-43 Learning, Telemedicine, and Broadband Program," "Rural Utilities
 4-44 Service," "Rural Development Programs" in Title I, Infrastructure
 4-45 Investments and Jobs Appropriations Act (Title I, Div. J, Pub. L.
 4-46 No. 117-58, 135 Stat. 1351);

4-47 (6) under Section 905, Division N, Consolidated
 4-48 Appropriations Act, 2021 (Pub. L. No. 116-260, 134 Stat. 2136);
 4-49 ~~or~~

4-50 (7) from a state, territory, tribal government, or
 4-51 unit of local government to the extent the grant was:

4-52 (A) funded by amounts provided under 42 U.S.C.
 4-53 Section 802, 803, or 804; and

4-54 (B) provided for the stated purposes of making
 4-55 investments in broadband infrastructure; or

4-56 (8) from the comptroller under Subchapter S, Chapter
 4-57 403, Government Code, or Chapter 490I of that code.

4-58 (a-1) For purposes of Subsection (a)(8), a reimbursement
 4-59 award received by a taxable entity under Subchapter S, Chapter 403,
 4-60 Government Code, is considered a grant for broadband development in
 4-61 this state.

4-62 SECTION 8. The following provisions are repealed:

4-63 (1) Chapter 490H, Government Code;

4-64 (2) Sections 490I.0105(g), (h), (i), (j), (k), (l),
 4-65 (n), (o), and (p), Government Code; and

4-66 (3) Section 151.325, Tax Code.

4-67 SECTION 9. The changes in law made by this Act do not affect
 4-68 tax liability accruing before the effective date of this Act. That
 4-69 liability continues in effect as if this Act had not been enacted,

and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 10. Section 171.10132, Tax Code, as amended by this Act, applies only to a report originally due on or after January 1, 2026.

SECTION 11. This Act takes effect July 1, 2025, 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 effect on that date, this Act takes effect September 1, 2025.

* * * * *