RELATING TO BROADBAND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The legislature finds that the economic and
business incentives to deploy broadband service infrastructure
are insufficient to ensure full access to broadband services in
low-density rural locations and other unserved and underserved
areas of the State where the unit costs of providing service may
not provide an adequate return on investment. Economically
feasible deployment of infrastructure for high-speed broadband
across the State, especially in low population density areas,
presents a more formidable challenge than that faced by most
states that are part of one continental land mass that allows
for less costly options for connectivity.

The legislature strongly supports efforts to improve access
to broadband services for residents across the State as well as
efforts that benefit consumers and businesses in accessing
services. Although broadband coverage in the State is
widespread, additional investment could be made to bring
broadband access to rural communities.
The legislature further finds that access to broadband services in unserved and underserved areas in Hawaii will enhance economic development, education, health care, and emergency services in the State. The availability of grants for deployment to unserved and underserved areas will further those objectives by encouraging new investment in broadband service infrastructure.

The purpose of this Act is to facilitate the deployment of broadband service infrastructure in unserved and underserved areas of Hawaii by establishing a program to award grants to deploy facilities.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER BROADBAND FUNDING PROGRAM FOR UNSERVED AND UNDERSERVED AREAS

§ -1 Definitions. As used in this chapter, unless the context indicates otherwise:

"Broadband service" means mass market retail services that use any wireline or fixed wireless technology that provides the
capability to transmit data from or to all or substantially all internet endpoints.

"Broadband service infrastructure" means the signal transmission facilities and associated network equipment proposed to be deployed in a project area used for the provision of broadband service to residential customers.

"Department" means the department of business, economic development, and tourism.

"Project" means a proposed deployment of broadband service infrastructure described in an application for grant funding authorized under this chapter.

"Project area" means a census block or aggregation of adjacent census blocks proposed to be covered in an application for grant funding authorized under this chapter.

"Underserved area" means a project area without access to broadband service that has minimum speeds of at least fifty megabits per second downstream and five megabits per second upstream.

"Unserved area" means a project area without access to broadband service that has minimum speeds of at least twenty-
five megabits per second downstream and three megabits per second upstream.

§ -2 Administration and funding. (a) There is established the broadband infrastructure grant program to provide grants for eligible projects.

(b) The department shall administer the grant program and shall be responsible for receiving and reviewing applications and awarding grants.

§ -3 Eligible projects. (a) No grants shall be awarded for a project unless the area to be served by the proposed deployment of broadband service infrastructure is an unserved area or underserved area. No grants shall be awarded for any project involving the upgrade of an existing broadband plant to meet the minimum speed thresholds as an unserved area or underserved area.

(b) A project area served by the project shall be described on a census block basis.

§ -4 Eligible applicants. An applicant for a grant under this chapter:

(1) Shall be a non-governmental entity with demonstrated experience in providing broadband service or other
communications service to residential customers within
the State;

(2) Shall not apply for or receive funds for a project
under any other federal or state government grant or
loan program; and

(3) At the time of application, shall agree to pay, a
matching funds, a minimum of twenty per cent of the
project costs; provided that the matching funds shall
not be derived from funds received by the applicant
through any other federal or state government grant,
loan, or subsidy program.

§ 5 Applications. (a) The department shall establish
an annual grant application period that shall be not less than
sixty and not more than ninety days.

(b) An eligible applicant shall submit an application to
the department on a form to be prescribed by the department. An
application for a grant shall include the following:

(1) Evidence demonstrating the applicant's experience and
ability in building, operating, and managing broadband
service networks that serve residential customers;
(2) A description of the project area, including a list of census blocks to be covered by the project; provided that if a census block included in an application is already served in part by a provider of broadband service, the application shall include a description of the portions of the census block that are already served and the portions of the census block that constitute an unserved area or underserved area, and the applicant shall certify that funds provided by the grant program for the project proposed in the application shall not be used to extend or deploy facilities to households that are already served;

(3) A description of the project, including facilities, equipment, and network capabilities, including minimum speed thresholds;

(4) Evidence, including a certification by the applicant, demonstrating the unserved or underserved nature of the project area;

(5) An estimate of the number of new households that are likely to be reached by the broadband service if the project is executed;
(6) The total cost of the project and the timeframe in which it will be completed;

(7) The amount of matching funds that the applicant proposes to contribute and a certification that no matching funds are derived from any other federal or state grant, loan, or subsidy program;

(8) Evidence demonstrating the economic and commercial feasibility of the project;

(9) A list of all government authorizations, permits, and other approvals required or anticipated to be required in connection with the project, and an expected timetable for the applicant's acquisition of the authorizations, permits, or approvals; and

(10) Any other information required by the department.

§ -6 Review of applications; approval. (a) Within five business days following the end of the grant application period, the department shall make the applications available for review in a publicly available electronic file.

(b) A broadband service provider that provides service within or directly adjacent to a proposed project area may submit a written challenge to any application within forty-five
days of the public availability of the grant applications. The challenge may include information that:

(1) Disputes an applicant's certification that a proposed project area is an unserved area or underserved area or that no matching funds that the applicant proposes to contribute towards the project are derived from any other federal or state programs; or

(2) Attest to the broadband service provider's existing or planned provision of broadband service within an applicant's project area.

(c) In reviewing applications and any accompanying challenge, the department shall conduct its own review of proposed project areas to ensure that all awarded funds are used to deploy broadband service infrastructure to unserved or underserved areas. The department shall not award any grants to fund the deployment of broadband service infrastructure for any project area that is not an unserved or underserved area.

(d) The department shall award grants for projects based upon a scoring system that shall be made public at least thirty days prior to the starting date of the grant application period.
The scoring system shall give the highest priority to the specific criteria listed below:

(1) The size and scope of the unserved area or underserved area proposed to be served;

(2) The experience, technical ability, and financial skills of the applicant in successfully deploying and providing broadband service;

(3) The length of time that the applicant has provided broadband services in the State;

(4) The extent to which public financial support is necessary to deploy broadband service infrastructure to the proposed project area in an economically feasible manner;

(5) The size and proportion of the matching funds from the applicant;

(6) Whether the project area is an unserved area or an underserved area;

(7) The service speed thresholds proposed in the application and the scalability of the broadband service infrastructure proposed to be deployed at
1 speeds higher than twenty-five megabits per second
downstream and three megabits per second upstream;
(8) The applicant's ability to use nearby or adjacent
broadband service infrastructure to facilitate the
project and provision of service to households;
(9) The extent to which the project does not duplicate
existing broadband service infrastructure in the
project area; and
(10) Other factors that the department deems reasonable,
appropriate, and consistent with the purpose of
facilitating the economic deployment of broadband
service infrastructure to unserved areas.
(e) In awarding grants, the department shall not consider:
(1) Any new or additional regulatory obligations beyond
those required under applicable law, including open
access network requirements or any rate, service, or
other obligations beyond the speed requirements set
forth under this chapter; or
(2) Any factors that would restrict an applicant from
offering or providing broadband service in the manner
that the applicant offers service in other areas of
the State without public funding support.

(f) The department shall allow grant recipients a
reasonable amount of time to complete projects for which grants
are awarded.

§ -7 Implementation. (a) No later than one hundred
eighty days after the effective date of this Act, the department
shall adopt rules pursuant to chapter 91 for the submission,
review, and approval of grant applications and the
administration of projects for which grants are awarded,
including grant agreements and recordation of awards.

The rules shall cover reasonable oversight and reporting
requirements to ensure that project funds are used as intended.
The rules shall not include third-party audit requirements,
letter of credit, security fund, performance bond obligations,
or any other financial commitment to secure performance other
than those expressly specified in this chapter. The rules shall
not impose any financial penalty or liquidated damages or
include provisions that are not reasonably related to the
deployment of broadband service infrastructure by a grant
recipient in accordance with the purposes of this chapter.
(b) Nothing in this section shall be construed to:

(1) Preclude the department from:

(A) Requiring disgorgement of grant funds in response to a grant recipient's failure, following notice and an opportunity to cure, to build out a project area in accordance with the timeframes described in its application; or

(B) Considering an applicant's financial ability to complete the project proposed in its application or making reasonable requests for information necessary for the oversight and administration of projects; or

(2) Authorize the department to impose any new or additional regulatory requirements upon grant recipients, through a grant agreement or any other mechanism, other than the program implementation rules expressly authorized under this chapter."

SECTION 3. This Act shall take effect upon its approval.
Report Title:
Broadband Infrastructure; Grant Program; DBEDT

Description:
Establishes a broadband infrastructure grant program to be administered by the Department of Business, Economic Development, and Tourism.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.