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# A BILL FOR AN ACT

RELATING TO BROADBAND SERVICE INFRASTRUCTURE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the economic and  
2 business incentives to deploy broadband infrastructure may be  
3 insufficient to ensure full access to broadband services in low-  
4 density, rural locations and other unserved and underserved  
5 areas of the State where the unit costs of providing service may  
6 not provide an adequate return on investment.

7           Economically feasible deployment of infrastructure for  
8 high-speed broadband across the State, especially to low  
9 population density areas, presents a more formidable challenge  
10 than faced by most states, which are part of one continental  
11 land mass, because the unique geography of our State prevents  
12 the use of less costly options for connectivity.

13           Access to broadband services in unserved and underserved  
14 areas in Hawaii would enhance economic development, education,  
15 health care, and emergency services in the State. The  
16 availability of grants for deployment to unserved and



1 underserved areas would further those objectives by encouraging  
2 new investment in broadband infrastructure.

3 The legislature strongly supports efforts to improve access  
4 to broadband services for residents across the State and efforts  
5 that benefit consumers and businesses in accessing services.

6 Although broadband coverage in the State is widespread,  
7 additional investment can be made to keep up with needs in rural  
8 communities to bridge the digital divide.

9 The purpose of this Act is to facilitate the deployment of  
10 broadband infrastructure in unserved and underserved areas of  
11 Hawaii by identifying and addressing remaining obstacles to full  
12 deployment of broadband infrastructure to all areas of Hawaii.  
13 Specifically, this Act establishes the broadband infrastructure  
14 grant program to award grants to applicants to extend deployment  
15 of facilities used to provide broadband service to unserved and  
16 underserved areas of the State.

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

20 "CHAPTER

21 BROADBAND INFRASTRUCTURE GRANT PROGRAM



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

3           "Broadband service" means an "always-on" service that  
4 includes but is not limited to computer processing capabilities,  
5 information provision, and computing interactivity with data  
6 transport, enabling end users to access the Internet and use a  
7 variety of applications at minimum speeds established by the  
8 Federal Communications Commission.

9           "Broadband infrastructure" means the medium used to provide  
10 broadband access or broadband service, including fiber optic  
11 cable, copper cable, coaxial cable, and wireless media, such as  
12 satellite communications, wi-fi, and worldwide interoperability  
13 for microwave access.

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

16           "Program" means the broadband infrastructure grant program  
17 established by this chapter.

18           "Project" means a proposed deployment of broadband  
19 infrastructure set forth in an application for grant funding  
20 authorized under this chapter.



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

4 "Unserved area" means a project area without access to  
5 broadband service with minimum speeds of at least twenty-five  
6 megabits per second downstream and three megabits per second  
7 upstream.

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

11 **§ -2 Establishment of the broadband infrastructure grant**  
12 **program.** There is established the broadband infrastructure  
13 grant program to be placed in the department of business,  
14 economic development, and tourism for administrative purposes.  
15 The department shall receive and review grant applications and  
16 may award grants for eligible projects pursuant to the program.

17 **§ -3 Eligible projects.** (a) The department may award  
18 grants for eligible projects; provided that as of the date on  
19 which the application of the eligible person or entity is  
20 submitted, the area to be served by the proposed deployment for



1 which program support is sought shall be an unserved area or  
2 underserved area.

3 (b) The project area to be served by a project funded  
4 through the program shall be described on a census block basis.

5 § -4 Eligible applicants. To become eligible for a  
6 grant, an applicant for a grant:

7 (1) Shall commit to paying a minimum of fifty per cent of  
8 the project costs out of the applicant's own funds and  
9 may not provide a minimum matching amount from any  
10 funds derived from federal or state government grants,  
11 loans, or subsidies;

12 (2) May be any non-governmental entity with demonstrated  
13 experience in providing broadband service, broadband  
14 infrastructure, or other communications service to  
15 residential customers within the State; and

16 (3) A non-governmental broadband infrastructure provider  
17 may be considered an eligible applicant or may partner  
18 with another eligible applicant in order to qualify to  
19 receive funds.

20 § -5 Applications. (a) The department shall establish  
21 an annual window to commence an open process for submission of



1 applications for funding under the program. The window for  
2 submission shall be not less than sixty and not more than ninety  
3 days.

4 (b) The form of the application shall be as prescribed by  
5 the department. The application shall provide the following  
6 information:

- 7 (1) Evidence demonstrating the applicant's experience and  
8 ability in building, operating, and managing broadband  
9 infrastructure serving residential customers;
- 10 (2) A description of the project area, including a list of  
11 census blocks covered by the proposed deployment. If  
12 a census block included in an application already is  
13 partially served by a provider of broadband service,  
14 the application shall describe the portions of the  
15 census block that are already served, the portions of  
16 the census block that constitute an unserved area or  
17 underserved area, and include a certification that  
18 none of the funds provided by the program for the  
19 project proposed in the application will be used to  
20 extend or deploy facilities to any already-served  
21 households;



- 1           (3) A description of the broadband infrastructure that is
- 2                   proposed to be deployed, including facilities,
- 3                   equipment, and network capabilities, including minimum
- 4                   speed thresholds;
- 5           (4) Evidence, including certification from the application
- 6                   signatory, demonstrating the unserved or underserved
- 7                   nature of the project area;
- 8           (5) The number of households that would have new access to
- 9                   broadband service as a result of the grant;
- 10          (6) The total cost of the project and the timeframe in
- 11                   which it will be completed;
- 12          (7) The amount of matching funds the applicant proposes to
- 13                   contribute and a certification that no portion of the
- 14                   funds are derived from any federal or state government
- 15                   grants, loans, or subsidies;
- 16          (8) Evidence demonstrating the economic and commercial
- 17                   feasibility of the project;
- 18          (9) A list of all government authorizations, permits, and
- 19                   other approvals required in connection with the
- 20                   proposed deployment, and a timetable for the
- 21                   applicant's acquisition of such approvals; and



1 (10) Any other information required by the department.

2 § -6 Review of applications; approval. (a) Within five  
3 business days following the last day of the window for  
4 submission of applications, the department shall make the  
5 applications available for review in a publicly available  
6 electronic file.

7 (b) A broadband service provider that provides service  
8 within or directly adjacent to a proposed project area may  
9 submit, within forty-five days of the release of the  
10 applications, a written challenge to the application. Such a  
11 challenge may include information:

12 (1) Disputing an applicant's certification that a proposed  
13 project area is an unserved area or underserved area,  
14 or that no other federal or state programs provide  
15 funding for a proposed project for which program  
16 support is sought; and

17 (2) Attesting to the challenging provider's existing, or  
18 planned, provision of broadband service within the  
19 applicant's proposed project area.

20 (c) In reviewing applications, and any accompanying  
21 challenge, the department shall review the proposed project





1 areas to ensure that all awarded funds are used to deploy  
2 broadband infrastructure to unserved areas or underserved areas.  
3 The department shall not award any grants to fund deployment of  
4 broadband infrastructure for any project area that fails to meet  
5 the criteria for being unserved or underserved.

6 (d) The department shall award funding support for  
7 projects set forth in applications based upon a scoring system  
8 that shall be released to the public at least thirty days prior  
9 to the first day of the window for submission of applications.  
10 The weighting scheme employed by the department shall give the  
11 highest weight or priority to the specific criteria enumerated  
12 as follows:

- 13 (1) The size and scope of the unserved area or underserved  
14 area proposed to be served;
- 15 (2) The experience, technical ability, and financial  
16 wherewithal of the applicant in successfully deploying  
17 and providing broadband service;
- 18 (3) The extent to which government funding support is  
19 necessary to deploy broadband infrastructure in an  
20 economically feasible manner in the proposed project  
21 area;



- 1           (4) The size and proportion of the matching funds proposed
- 2                   to be committed by the applicant;
- 3           (5) Whether the proposed project area is an unserved area,
- 4                   rather than an underserved area;
- 5           (6) The service speed thresholds proposed in the
- 6                   application and the scalability of the broadband
- 7                   infrastructure proposed to be deployed to speeds
- 8                   higher than twenty-five megabits per second downstream
- 9                   and three megabits per second upstream;
- 10          (7) The applicant's ability to leverage nearby or adjacent
- 11                   broadband infrastructure to facilitate the proposed
- 12                   deployment and provision of service to households;
- 13          (8) The extent to which the project does not duplicate any
- 14                   existing broadband infrastructure in the proposed
- 15                   project area; and
- 16          (9) Such other factors the department determines to be
- 17                   reasonable and appropriate, consistent with the
- 18                   purpose of facilitating the economic deployment of
- 19                   broadband infrastructure to unserved and underserved
- 20                   areas.



1 (e) Applicants shall be afforded a reasonable timeframe to  
2 complete projects selected for funding approval.

3 § -7 Departmental authority. Nothing shall:

4 (1) Preclude the department from requiring disgorgement of  
5 grant funds in response to an applicant's pattern of  
6 failure, following notice and an opportunity to cure  
7 and build-out a project area in accordance with the  
8 timeframes and milestones set forth in its  
9 application;

10 (2) Be construed to preclude the department from  
11 considering an applicant's financial ability to  
12 complete the project proposed in an application or  
13 making reasonable requests for information necessary  
14 for the oversight and administration of projects  
15 funded under this chapter; and

16 (3) Be deemed to empower the department to adopt any new  
17 rules or additional regulatory obligations, or to  
18 impose any new or additional regulatory requirements  
19 on funding recipients, through grant agreements or any  
20 other mechanism, other than the program implementation  
21 rules expressly authorized in this chapter.



1 § -8 Rules. (a) The department shall adopt rules  
2 pursuant to chapter 91 to effectuate the purposes of this  
3 chapter.

4 (b) The rules:

5 (1) Shall include reasonable oversight and reporting  
6 provisions to ensure that project funds are used as  
7 intended; and

8 (2) May not impose any financial penalty or liquidated  
9 damages provisions, or provisions that are not  
10 reasonably related to the deployment of broadband  
11 infrastructure by an applicant in accordance with this  
12 chapter."

13 SECTION 3. Within one hundred eighty days of the approval  
14 of this Act, the department of business, economic development,  
15 and tourism shall adopt rules pursuant to chapter 91, Hawaii  
16 Revised Statutes, to implement the broadband infrastructure  
17 grant program including rules regarding the submission, review,  
18 and approval of applications; administration of projects funded;  
19 and grant agreements memorializing the award of funds.

20 SECTION 4. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$5,000,000 or so much



1 thereof as may be necessary for fiscal year 2019-2020 for the  
2 establishment and administration of the broadband infrastructure  
3 grant program established by this Act.

4 The sum appropriated shall be expended by the department of  
5 business, economic development, and tourism for the purposes of  
6 this Act.

7 SECTION 5. This Act shall take effect on January 1, 2020;  
8 provided that section 4 shall take effect on July 1, 2019.

9



# S.B. NO. 553 S.D. 1

**Report Title:**

Broadband Infrastructure Grant Program; Unserved and Underserved Areas; Appropriation

**Description:**

Establishes the broadband infrastructure grant program to award grants to applicants to extend deployment of infrastructure used to provide broadband service to unserved and underserved areas of the State. Makes an appropriation. Takes effect on 01/01/2020. (SD1)

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