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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 economically justify providing full access to  
4 broadband services in low-density, rural locations and other  
5 unserved and underserved areas of the State where the unit costs  
6 of providing service may not provide an adequate return on  
7 investment.

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

14           Access to broadband services in unserved and underserved  
15 areas of the State would enhance Hawaii's overall economic  
16 development, education, health care, and emergency services.  
17 Making grants available for the deployment of broadband



1 infrastructure to unserved and underserved areas would encourage  
2 new investment in broadband infrastructure and move the State  
3 toward full access to broadband services.

4 The legislature strongly supports efforts to improve access  
5 to broadband services for residents, consumers, and businesses  
6 across the State. Although broadband coverage in the State is  
7 widespread, additional investment can be made to meet access  
8 needs in rural communities.

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

17 SECTION 2. The Hawaii Revised Statutes is amended by  
18 adding a new chapter to title 13 to be appropriately designated  
19 and to read 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 infrastructure" shall have the same meaning as  
4 in section 440J-1.

5           "Broadband service" shall have the same meaning as  
6 "broadband access or broadband service" in section 440J-1.

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

9           "Program" means the broadband infrastructure grant program  
10 established by this chapter.

11           "Project" means a proposed deployment of broadband  
12 infrastructure set forth in an application for grant funding  
13 authorized under this chapter.

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

17           "Underserved area" means a project area with access to  
18 broadband service that the minimum upload and download speeds  
19 are less than double the minimum upload and download speeds  
20 required for broadband service.



1 "Unserved area" means a project area without access to  
2 broadband service.

3 **§ -2 Establishment of the broadband infrastructure grant**  
4 **program.** There is established the broadband infrastructure  
5 grant program within the department of business, economic  
6 development, and tourism for administrative purposes. The  
7 department shall receive and review grant applications and may  
8 award grants for eligible projects pursuant to the program.

9 **§ -3 Eligible projects.** The department may award grants  
10 for eligible projects; provided that on the date the application  
11 is submitted, the area to be served by the project shall be an  
12 unserved area or underserved area; provided further that no  
13 funds may be used to support any project involving the upgrade  
14 of an existing broadband plant by an applicant.

15 **§ -4 Eligible applicants.** To be eligible for a grant,  
16 an applicant shall:

17 (1) Commit to paying a minimum of twenty per cent of the  
18 total project costs out of the applicant's own funds;  
19 provided that no portion of these funds shall be  
20 derived from federal or state government grants,  
21 loans, or subsidies;



1 (2) Be any non-governmental entity with demonstrated  
2 experience in providing broadband service, broadband  
3 infrastructure, or other communication services to  
4 residential customers within the State; and

5 (3) Commit to complying with net neutrality principles as  
6 defined by Executive Order No. 18-02.

7 **§ -5 Applications.** (a) The department shall establish  
8 an annual time period to commence an open process for submission  
9 of applications for funding under the program. The time period  
10 for submission shall be no less than sixty days and no more than  
11 ninety days.

12 (b) The form of the application shall be as prescribed by  
13 the department and shall include submission of:

14 (1) Evidence demonstrating the applicant's experience and  
15 ability to build, operate, and manage broadband  
16 infrastructure serving residential customers;

17 (2) A description of the project area, including a list of  
18 census blocks covered by the proposed deployment. If  
19 a census block included in a project is partially  
20 served by a provider of broadband service, the  
21 application shall include a:



- 1 (A) Description of the portions of the census block  
2 that are served;
- 3 (B) Description of the portions of the census block  
4 that constitute an unserved area or underserved  
5 area; and
- 6 (C) Certification that no portion of the grant  
7 provided by the program for the project shall be  
8 used to extend or deploy facilities to any  
9 already-served households;
- 10 (3) A description of the broadband infrastructure that is  
11 proposed to be deployed, including facilities,  
12 equipment, and network capabilities, including minimum  
13 speed thresholds;
- 14 (4) Evidence, including certification from the applicant,  
15 demonstrating the unserved or underserved nature of  
16 the project area;
- 17 (5) The number of households in each:
- 18 (A) Unserved area that would gain access to broadband  
19 service; and
- 20 (B) Underserved area that would gain access to  
21 broadband service with minimum upload and



1 download speeds that are equal to or more than  
2 double the minimum upload and download speeds  
3 required for broadband service,  
4 as a result of the grant;

5 (6) The total cost and timeline for completion of the  
6 project;

7 (7) The amount of matching funds that the applicant  
8 proposes to contribute and a certification that no  
9 portion of the matching funds are derived from any  
10 federal or state government grants, loans, or  
11 subsidies;

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

14 (9) A list of all government authorizations, permits, and  
15 other approvals required for the project and a  
16 timeline for the applicant's acquisition of the  
17 approvals; and

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

19 **§ -6 Review of applications; approval.** (a) Within five  
20 business days following the last day of the time period for  
21 submission of applications to the program, the department shall



1 make all of the applications available for review in a publicly  
2 available electronic file posted on the department's website.

3 (b) A broadband service provider that provides service  
4 within or directly adjacent to a proposed project area may  
5 submit a written challenge to any application within forty-five  
6 days of the department making the applications available for  
7 review pursuant to subsection (a). The challenge may:

8 (1) Dispute an applicant's certification that a proposed  
9 project area is an unserved area or underserved area  
10 or that no other federal or state programs provide  
11 funding that is available to the applicant for a  
12 project for which program support is sought; or

13 (2) Attest to the challenging provider's existing or  
14 planned provision of broadband service within the  
15 applicant's proposed project area.

16 (c) In reviewing applications and any accompanying  
17 challenge, the department shall review the proposed project  
18 areas to ensure that all awarded funds are used to deploy  
19 broadband infrastructure to unserved areas or underserved areas.

20 (d) The department shall award program grants based upon a  
21 scoring system that shall be released to the public at least





1 thirty days prior to the first day of the time period for  
2 submission of applications. The scoring system shall give the  
3 highest weight or priority to the following specific criteria:

- 4 (1) Projects proposing to serve a larger geographic area,  
5 whether an unserved area or underserved area;
- 6 (2) Applicants with more experience and technical ability  
7 to successfully deploy and provide broadband service  
8 and more financial resources available to finance the  
9 project;
- 10 (3) Projects for which fewer government funds and less  
11 support are necessary to deploy broadband  
12 infrastructure in an economically feasible manner;
- 13 (4) Projects with a higher amount of matching funds  
14 proposed to be committed by the applicant;
- 15 (5) Projects in unserved areas, rather than those in  
16 underserved areas;
- 17 (6) High service speed thresholds proposed in the  
18 application and high scalability of the broadband  
19 infrastructure proposed to be deployed;



- 1 (7) Applicants with a high ability to leverage nearby or  
2 adjacent broadband infrastructure to facilitate the  
3 proposed deployment of service to households;
- 4 (8) Projects that do not duplicate any existing broadband  
5 infrastructure in the project area; and
- 6 (9) Other factors the department determines to be  
7 reasonable and appropriate, consistent with the  
8 purpose of facilitating the deployment of broadband  
9 infrastructure to unserved and underserved areas.
- 10 (e) Each grant award shall include a reasonable timeframe  
11 to complete the project.
- 12 **§ -7 Departmental authority.** The department may:
- 13 (1) Following notice and an opportunity to cure, require  
14 disgorgement of grant funds in response to an  
15 applicant's pattern of failure to build-out a project  
16 area in accordance with the timelines and milestones  
17 set forth in its application;
- 18 (2) Consider an applicant's financial ability to complete  
19 the project proposed in an application;



1 (3) Make reasonable requests for information necessary for  
2 the oversight and administration of any project funded  
3 pursuant to this chapter; and

4 (4) Impose any new or additional regulatory requirements  
5 on grant recipients, through grant agreements or any  
6 other mechanism, in addition to the program  
7 implementation rules expressly authorized in this  
8 chapter.

9 **§ -8 Rules.** (a) The department shall adopt rules  
10 pursuant to chapter 91 to effectuate the purposes of this  
11 chapter.

12 (b) The rules shall:

13 (1) Include reasonable oversight and reporting provisions  
14 to ensure that grant moneys are used as intended; and

15 (2) Not impose any financial penalty or liquidated damages  
16 provisions, or provisions that are not reasonably  
17 related to the deployment of broadband infrastructure  
18 on the State in accordance with this chapter."

19 SECTION 3. Within one hundred eighty days of the approval  
20 of this Act, the department of business, economic development,  
21 and tourism shall adopt rules pursuant to chapter 91, Hawaii



1 Revised Statutes, to implement the broadband infrastructure  
2 grant program; provided that any rules adopted pursuant to this  
3 section shall include rules regarding the submission, review,  
4 and approval of applications; administration of projects funded;  
5 and grant agreements memorializing the award of funds.

6 SECTION 4. This Act shall take effect on July 1, 2050.



**Report Title:**

DBEDT; Broadband Infrastructure Grant Program; Unserved and Underserved Areas

**Description:**

Establishes the broadband infrastructure grant program within the Department of Business, Economic Development, and Tourism, to award grants to applicants to extend deployment of infrastructure used to provide broadband service to unserved and underserved areas of the State. Effective 7/1/2050. (SD2)

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

