A BILL FOR AN ACT

RELATING TO BROADBAND SERVICE INFRASTRUCTURE.

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

SECTION 1. The legislature finds that the economic and business incentives to deploy broadband infrastructure may be 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 to low population density areas, presents a more formidable challenge than faced by most states, which are part of one continental land mass, because the unique geography of our State prevents the use of less costly options for connectivity.

Access to broadband services in unserved and underserved areas in Hawaii would enhance economic development, education, health care, and emergency services in the State. The availability of grants for deployment to unserved and
underserved areas would further those objectives by encouraging
new investment in broadband infrastructure.

The legislature strongly supports efforts to improve access
to broadband services for residents across the State and efforts
that benefit consumers and businesses in accessing services.
Although broadband coverage in the State is widespread,
additional investment can be made to keep up with needs in rural
communities to bridge the digital divide.

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

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

"CHAPTER

BROADBAND INFRASTRUCTURE GRANT PROGRAM"
§ -1 Definitions. As used in this chapter, unless the context requires otherwise:

"Broadband infrastructure" shall have the same meaning as in section 440J-1.

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

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

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

"Project" means a proposed deployment of broadband infrastructure set forth 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 with access to broadband service that the minimum upload and download speeds are less than double the minimum upload and download speeds required for broadband service.
"Unserved area" means a project area without access to broadband service.

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

§ -3 Eligible projects. The department may award grants for eligible projects; provided that on the date the application is submitted, the area to be served by the project shall be an unserved area or underserved area.

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

(1) Commit to paying a minimum of fifty per cent of the project costs out of the applicant's own funds and shall not provide a minimum matching amount from any funds derived from federal or state government grants, loans, or subsidies;

(2) Be any non-governmental entity with demonstrated experience in providing broadband service, broadband
infrastructure, or other communication services to
residential customers within the State; and
(3) Commit to complying with net neutrality principles as
defined by Executive Order No. 18-02.

§ -5 Applications. (a) The department shall establish
an annual time period to commence an open process for submission
of applications for funding under the program. The time period
for submission shall be not less than sixty and not more than
ninety days.

(b) The form of the application shall be as prescribed by
the department and require submission of the following:
(1) Evidence demonstrating the applicant's experience and
ability in building, operating, and managing broadband
infrastructure serving residential customers;
(2) A description of the project area, including a list of
census blocks covered by the proposed deployment. If
a census block included in a project is partially
served by a provider of broadband service, the
application shall include:
(A) A description of the portions of the census block
that are served;
(B) A description of the portions of the census block that constitute an unserved area or underserved area; and

(C) A certification that no portion of the grant provided by the program for the project shall be used to extend or deploy facilities to any already-served households;

(3) A description of the broadband infrastructure that is proposed to be deployed, including facilities, equipment, and network capabilities, including minimum speed thresholds;

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

(5) The number of households in each:

(A) Unserved area that would gain access to broadband service; and

(B) Underserved area that would gain access to broadband service with minimum upload and download speeds that are equal to or more than
double the minimum upload and download speeds
required for broadband service,
as a result of the grant;
(6) The total cost of the project and the timeframe in
which it will be completed;
(7) The amount of matching funds the applicant proposes to
contribute and a certification that no portion of the
matching funds are derived from any federal or state
government grants, loans, or subsidies;
(8) Evidence demonstrating the economic and commercial
feasibility of the project;
(9) A list of all government authorizations, permits, and
other approvals required for the project and a
timetable for the applicant's acquisition of the
approvals; and
(10) Any other information required by the department.
§ -6 Review of applications; approval. (a) Within five
business days following the last day of the time period for
submission of applications, 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, within forty-five days of the department making the applications available for review in a publicly available electronic file, a written challenge to any application. The challenge may:

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

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

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

(d) The department shall award grants for projects set forth in applications based upon a scoring system that shall be released to the public at least thirty days prior to the first
day of the time period for submission of applications. The
scoring system shall give the highest weight or priority to the
specific criteria enumerated as follows:

(1) Larger unserved area or underserved area proposed to
be served;

(2) Applicants with more experience and technical ability
to successfully deploy and provide broadband service
and more financial resources available to finance the
project;

(3) Projects in which fewer government funds and less
support are necessary to deploy broadband
infrastructure in an economically feasible manner;

(4) Projects with more matching funds proposed to be
committed by the applicant;

(5) Projects in unserved areas, rather than those in
underserved areas;

(6) High service speed thresholds proposed in the
application and high scalability of the broadband
infrastructure proposed to be deployed to speeds more
than the minimum upload and download speeds required
for broadband service;
(7) Applicants with a high ability to leverage nearby or adjacent broadband infrastructure to facilitate the proposed deployment and provision of service to households;

(8) Projects that do not duplicate any existing broadband infrastructure in the project area; and

(9) Other factors the department determines to be reasonable and appropriate, consistent with the purpose of facilitating the economic deployment of broadband infrastructure to unserved and underserved areas.

(e) Each grant award shall include a reasonable timeframe to complete the project.

§ -7 Departmental authority. The department may:

(1) Require disgorgement of grant funds in response to an applicant's pattern of failure, following notice and an opportunity to cure and build-out a project area in accordance with the timeframes and milestones set forth in its application;

(2) Consider an applicant's financial ability to complete the project proposed in an application and make
reasonable requests for information necessary for the oversight and administration of any project funded pursuant to this chapter; and

(3) Impose any new or additional regulatory requirements on grant recipients, through grant agreements or any other mechanism, other than the program implementation rules expressly authorized in this chapter.

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

(b) The rules shall:

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

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

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

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much thereof as may be necessary for fiscal year 2019-2020 for the establishment and administration of the broadband infrastructure grant program established by this Act.

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

SECTION 5. This Act shall take effect on July 1, 2050; provided that section 4 shall take effect on July 1, 2050.
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. Effective 7/1/2050. (SD2)

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