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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 access to reliable  
2 high-speed broadband across the State and in every community  
3 is essential to the well-being and economic realities of the  
4 State's residents. The need for new and enhanced broadband  
5 infrastructure is significant, highlighted by the devastating  
6 impact of the coronavirus disease 2019. The lack of  
7 accessibility to reliable high-speed broadband has had a  
8 tremendous negative effect in many areas, but particularly  
9 unserved communities. Insufficient broadband infrastructure  
10 and access has hampered the ability of the State to deliver  
11 consistent and meaningful distance learning for all students.  
12 Telehealth services have replaced in-person doctor visits and  
13 are now serving as a significant tool in providing remote  
14 medical services to those who would otherwise be unable to  
15 receive proper medical care.

16           The legislature further finds that reliable broadband  
17 access has meant the difference between an employee being



1 able to work remotely or possibly facing unemployment. Online  
2 access is also a critical tool for those seeking to access  
3 social services such as unemployment claims, Supplemental  
4 Nutrition Assistance Program benefits, vital records, and  
5 other critical government services. The ability to provide  
6 the services needed relies upon the existence of a robust and  
7 extensive broadband infrastructure.

8       Increased access to broadband services in unserved areas  
9 of the State would enhance Hawaii's overall economic  
10 development, education, health care, and emergency services.  
11 Making grants available for the deployment of broadband  
12 infrastructure to unserved areas would encourage new private  
13 investment in broadband infrastructure and move the State  
14 toward universal access to broadband services.

15       The legislature strongly supports efforts to improve  
16 access to broadband services for residents, consumers, and  
17 businesses across the State. Although broadband coverage in  
18 the State is widespread, additional investment must be made to  
19 meet the needs in rural communities and enhance access for  
20 those in communities that require immediate broadband  
21 infrastructure.



1           The purpose of this Act is to facilitate the deployment  
2 of last-mile broadband infrastructure in unserved areas of  
3 the State by identifying and addressing any remaining  
4 obstacles to full deployment of broadband infrastructure to  
5 all areas of Hawaii. More specifically, this Act:

- 6           (1) Establishes the broadband infrastructure grant  
7           program to award grants to extend the deployment of  
8           facilities used to provide broadband service to  
9           unserved areas of the State;
- 10          (2) Renames the Hawaii technology loan revolving fund to  
11          the Hawaii broadband infrastructure fund and  
12          changing the types of funds to be deposited into the  
13          fund; and
- 14          (3) Authorizes the issuance of general obligation bonds  
15          to be deposited into, and appropriated out of, the  
16          Hawaii broadband infrastructure fund, for purposes  
17          of the broadband infrastructure grant program.

18          SECTION 2. The Hawaii Revised Statutes is amended by  
19 adding a new chapter to title 13 to be appropriately designated  
20 and to read as follows:



1 "CHAPTER

2 BROADBAND INFRASTRUCTURE GRANT PROGRAM

3 § -1 Definitions. As used in this chapter, unless the  
4 context requires otherwise:

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

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

9 "Broadband service" does not include wireless network  
10 infrastructure or facilities used to provide wireless  
11 services over licensed spectrum.

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

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

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

19 "Project area" means an area identified by a shapefile  
20 that is proposed to be covered in an application for grant  
21 funding authorized under this chapter.



1 "Shapefile" means a file format for storing, depicting, and  
2 analyzing geospatial data depicting broadband coverage.

3 "Shapefile" includes several component files, including a main  
4 file (.shp), index file (.shx), and dBASE table (.dbf).

5 "Underserved area" means a project area with access to  
6 broadband service but at speeds of less than fifty megabits per  
7 second for downloads and five megabits per second for uploads.

8 "Unserved area" means a project area without access to  
9 broadband service. "Unserved area" shall not include any  
10 location where federal government funding has been awarded  
11 pursuant to the Rural Digital Opportunity Fund specifically to  
12 support the deployment or expansion of broadband networks;  
13 provided that an area shall be considered unserved if the  
14 funding award is forfeited or upon disqualification of the  
15 recipient entity awarded funding for the geographic area under  
16 the Rural Digital Opportunity Fund.

17 **§ -2 Broadband infrastructure grant program;**  
18 **establishment.** There is established the broadband  
19 infrastructure grant program within the department of business,  
20 economic development, and tourism for administrative purposes.



1 The department shall receive and review grant applications and  
2 may award grants for eligible projects pursuant to the program.

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

7       **§ -4 Eligible applicants.** To be eligible for a grant,  
8 an applicant shall:

9       (1) Commit to paying a minimum of eighty per cent of the  
10 total project costs out of the applicant's own funds  
11 if the State's portion of the total project costs is  
12 derived from general funds or general obligation  
13 bonds; provided that this requirement shall not apply  
14 if the State's portion of the total project costs is  
15 derived from funds received from the federal  
16 government;

17       (2) Be a non-governmental entity with demonstrated  
18 experience in providing broadband service, broadband  
19 infrastructure, or other communication services to  
20 residential customers within the State; and



1 (3) Attest that the project does not jeopardize the  
2 eligibility of federal funding.

3 **§ -5 Applications.** (a) The department shall establish  
4 an annual time period to commence an open process for submission  
5 of applications for funding under the program. The time period  
6 for submission shall be no less than sixty days and no more  
7 than ninety days.

8 (b) The form of the application shall be as prescribed by  
9 the department and shall include:

10 (1) Evidence demonstrating the applicant's experience and  
11 ability to build, operate, and manage broadband  
12 infrastructure servicing residential customers;

13 (2) A description of the project area, including a  
14 shapefile identifying the proposed deployment;

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

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



- 1           (5) The number of households in each unserved area that
- 2                    would gain access to broadband service as a result of
- 3                    the project;
- 4           (6) The total cost and timeline for completion of the
- 5                    project;
- 6           (7) The amount of matching funds that the applicant
- 7                    proposes to contribute and a certification that no
- 8                    portion of the matching funds are derived from any
- 9                    state government grant, loan, or subsidy;
- 10          (8) Evidence demonstrating the economic and commercial
- 11                    feasibility of the project;
- 12          (9) A list of all expected government authorizations,
- 13                    permits, and other approvals required for the project
- 14                    and a timeline for the applicant's acquisition of the
- 15                    approvals;
- 16          (10) A certification that no other federal or state program
- 17                    provides funding that is available to the applicant
- 18                    for the project; and
- 19          (11) Any other information deemed necessary by the
- 20                    department.





1           **§ -6 Review of applications; approval.** (a) Within five  
2 business days following the last day of the time period for  
3 submission of applications to the program, the department shall  
4 make all of the applications available for review in a publicly  
5 available electronic file posted on the department's website.

6           (b) To the extent the information in an application or  
7 challenge falls under one or more of the exceptions to public  
8 disclosure in section 92F-13 or comprises commercially sensitive  
9 information, including information regarding the location of  
10 critical infrastructure, addresses of locations capable of  
11 receiving service under an existing provider's standard  
12 installation intervals, number of actual subscribers, subscriber  
13 addresses, non-public internal financial or network cost  
14 information, or vendor agreements, the department shall keep the  
15 information confidential upon request by:

16           (1) An applicant for confidential treatment of an  
17 application, except that in no event shall a request  
18 for confidentiality prevent the publicly available  
19 portion of the application from including sufficient  
20 evidence to demonstrate the requirements of section  
21                   -5(b)(2) and       -5(b)(4); or



1 (2) A challenging provider for confidential treatment of a  
2 challenge submitted pursuant to this section.

3 (c) 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 that no other  
10 federal or state program provides funding that is  
11 available to the applicant for a project for which  
12 program support is sought;

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

16 (3) Attest that the project may jeopardize the eligibility  
17 of federal funding for the challenging provider.

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



1 (e) The department shall award program grants based on a  
2 scoring system that shall be released to the public at least  
3 thirty days prior to the first day of the time period for the  
4 submission of applications. The scoring system shall give the  
5 highest weight or priority to the following:

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



1 (6) Applicants with a high ability to leverage nearby or  
2 adjacent broadband infrastructure to facilitate the  
3 proposed deployment of service to households;

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

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

10 **§ -7 Departmental authority.** The department may:

11 (1) Following notice and an opportunity to cure, require  
12 disgorgement of grant funds in response to an  
13 applicant's pattern of failure to build out a project  
14 area in accordance with the timelines and milestones  
15 set forth in its application;

16 (2) Consider an applicant's financial ability to complete  
17 the project proposed in an application;

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



1 (4) Impose any new or additional regulatory requirements  
2 on grant recipients, through grant agreements or any  
3 other mechanism, in addition to the program  
4 implementation rules expressly authorized in this  
5 chapter; and

6 (5) Deny or cancel a project if the department finds the  
7 project will impact federal funding opportunities.

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

11 (b) The rules shall:

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

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

18 SECTION 3. Section 206M-15.6, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "[+]§206M-15.6[+] Hawaii [~~technology loan revolving~~]  
21 broadband infrastructure fund. There is established the Hawaii



1 ~~[technology loan revolving]~~ broadband infrastructure fund for  
2 the purpose of investing in ~~[technology development]~~ broadband  
3 infrastructure in ~~[Hawaii]~~ the State. The following shall be  
4 deposited into the Hawaii ~~[technology loan revolving]~~ broadband  
5 infrastructure fund:

- 6 (1) Appropriations from the legislature;
- 7 ~~[-2- Moneys received as repayments of loans;~~
- 8 ~~[-3- Investment earnings;~~
- 9 ~~[-4- Royalties;~~
- 10 ~~[-5- Premiums, or fees or equity charged by the~~  
11 ~~corporation, or otherwise received by the corporation;~~  
12 ~~and~~
- 13 ~~[-6- Loans that are convertible to equity;]~~
- 14 (2) Funds received from the federal government;
- 15 (3) Funds received from a county; and
- 16 (4) Funds received from the private sector;

17 provided that the total amount of moneys in the fund shall not  
18 exceed ~~[\$2,000,000]~~ \$10,000,000 at the end of any fiscal year."

19 SECTION 4. Within twelve months following the effective  
20 date of this Act, the department of business, economic  
21 development, and tourism shall adopt rules pursuant to chapter



1 91 and section -8, Hawaii Revised Statutes, to implement the  
 2 broadband infrastructure grant program; provided that any rules  
 3 adopted pursuant to this section shall include rules regarding  
 4 the submission, review, and approval of applications;  
 5 administration of the projects funded; and grant agreements  
 6 memorializing the award of funds.

7 SECTION 5. The director of finance is authorized to issue  
 8 general obligation bonds in the sum of \$ or so much  
 9 thereof as may be necessary and the same sum or so much thereof  
 10 as may be necessary is appropriated for fiscal year 2021-2022 to  
 11 be deposited into the Hawaii broadband infrastructure fund for  
 12 the broadband infrastructure grant program established by this  
 13 Act.

14 SECTION 6. There is appropriated out of the Hawaii  
 15 broadband infrastructure fund the sum of \$ or so much  
 16 thereof as may be necessary for fiscal year 2021-2022 for the  
 17 broadband infrastructure grant program established by this act.

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



1 SECTION 7. The appropriation made for the capital  
2 improvement project authorized by this Act shall not lapse at  
3 the end of the fiscal biennium for which the appropriation is  
4 made; provided that all moneys from the appropriation  
5 unencumbered as of June 30, 2024, shall lapse as of that date.

6 SECTION 8. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 9. This Act shall take effect on July 1, 2050.





**Report Title:**

Broadband Infrastructure Grant Program; Unserved Areas; Underserved Areas; Hawaii Broadband Infrastructure Fund; General Obligation Bonds; 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. Renames the Hawaii technology loan revolving fund to the Hawaii broadband infrastructure fund. Clarifies the meaning of unserved area. Expands project eligibility requirements under the Hawaii broadband infrastructure grant program to include underserved areas. Allows applicants to designate material, including commercially sensitive information, as confidential or a challenger to request confidential treatment. Authorizes the issuance of general obligation bonds for deposit into and appropriates moneys out of the Hawaii broadband infrastructure fund for the broadband infrastructure grant program. Effective 7/1/2050. (SD2)

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