
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 for the broadband infrastructure grant program.

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

19 "CHAPTER

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

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

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

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

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

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



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

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

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

18 **§ -3 Eligible projects.** The department may award grants
19 for eligible projects; provided that on the date the application
20 is submitted, the area to be served by the project shall include



1 either unserved areas or those areas that are partially served
2 by an existing provider.

3 **§ -4 Eligible applicants.** To be eligible for a grant,
4 an applicant shall:

5 (1) Commit to paying a minimum of fifty per cent of the
6 total project costs out of the applicant's own funds;

7 (2) Be a non-governmental entity with demonstrated
8 experience in providing broadband service, broadband
9 infrastructure, or other communication services to
10 residential customers within the State; and

11 (3) Attest that the project does not jeopardize the
12 eligibility of federal funding.

13 **§ -5 Applications.** (a) The department shall establish
14 an annual time period to commence an open process for submission
15 of applications for funding under the program. The time period
16 for submission shall be no less than sixty days and no more
17 than ninety days.

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



- 1 (1) Evidence demonstrating the applicant's experience and
2 ability to build, operate, and manage broadband
3 infrastructure servicing residential customers;
- 4 (2) A description of the project area, including a
5 shapefile identifying the proposed deployment;
- 6 (3) A description of the broadband infrastructure that is
7 proposed to be deployed, including facilities,
8 equipment, and network capabilities, including minimum
9 speed thresholds;
- 10 (4) Evidence, including certification from the applicant,
11 demonstrating the unserved nature of the project area;
- 12 (5) The number of households in each unserved area that
13 would gain access to broadband service as a result of
14 the project;
- 15 (6) The total cost and timeline for completion of the
16 project;
- 17 (7) The amount of matching funds that the applicant
18 proposes to contribute and a certification that no
19 portion of the matching funds are derived from any
20 state government grant, loan, or subsidy;



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

3 (9) A list of all expected government authorizations,
4 permits, and other approvals required for the project
5 and a timeline for the applicant's acquisition of the
6 approvals; and

7 (10) Any other information deemed necessary by the
8 department.

9 § -6 **Review of applications; approval.** (a) Within five
10 business days following the last day of the time period for
11 submission of applications to the program, the department shall
12 make all of the applications available for review in a publicly
13 available electronic file posted on the department's website.

14 (b) To the extent the information falls under one or more
15 of the exceptions to public disclosure in section 92F-13, the
16 department shall treat any information in an application or a
17 challenge confidential upon request by:

18 (1) An applicant for confidential treatment of an
19 application, except that in no event shall such
20 request for confidentiality prevent the publicly
21 available portion of the application from including



1 sufficient evidence to demonstrate the requirements of
2 section -5(b)(2) and -5(b)(4); or

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

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

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

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

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

20 (d) 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.

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

- 8 (1) Projects proposing to serve a larger unserved
9 geographic area;
- 10 (2) Applicants with more experience and technical ability
11 to successfully deploy and provide broadband service
12 and more financial resources available to finance the
13 project;
- 14 (3) Projects for which fewer government funds and less
15 support are necessary to deploy broadband
16 infrastructure in an economically feasible manner;
- 17 (4) Projects with a higher amount of matching funds
18 proposed to be committed by the applicant;
- 19 (5) High service speed thresholds proposed in the
20 application and high scalability of the broadband
21 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 of the effective date of
 20 this Act, the department of business, economic development, and
 21 tourism shall adopt rules pursuant to chapter 91 and



1 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
11 for the purpose of the broadband infrastructure grant program
12 established by this Act.

13 SECTION 6. The appropriation made for the capital
14 improvement project authorized by this Act shall not lapse at
15 the end of the fiscal biennium for which the appropriation is
16 made; provided that all moneys from the appropriation
17 unencumbered as of June 30, 2024, shall lapse as of that date.

18 SECTION 7. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

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



Report Title:

Broadband Infrastructure Grant Program; Unserved 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 areas of the State. Renames the Hawaii technology loan revolving fund to the Hawaii broadband infrastructure fund, including the types of funds deposited into the fund. Clarifies the meaning of unserved area. Expands project eligibility requirements under the Hawaii broadband infrastructure grant program to include partially served areas. Allows applicants to designate material as confidential or a challenger to request confidential treatment. Authorizes the issuance of general obligation bonds for the broadband infrastructure grant program. Effective 7/1/2050.
(SD1)

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