



GOV. MSG. NO. 1353

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 6, 2021

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 6, 2021, the following bill was signed into law:

HB1191 HD2 SD2 CD1

RELATING TO BROADBAND SERVICE
INFRASTRUCTURE
ACT 225 (21)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

ORIGINAL

Approved by the Governor

on JUL 06 2021

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

ACT 225

H.B. NO.

1191
H.D. 2
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO BROADBAND SERVICE INFRASTRUCTURE.

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

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PART I

SECTION 1. The legislature finds that access to reliable high-speed broadband across the State and in every community is essential to the well-being and economic realities of the State's residents. The need for new and enhanced broadband infrastructure is significant, highlighted by the devastating impact of the coronavirus disease 2019. The lack of accessibility to reliable high-speed broadband has had a tremendous negative effect in many areas, but particularly unserved and underserved communities. Insufficient broadband infrastructure and access has hampered the ability of the State to deliver consistent and meaningful distance learning for all students. Telehealth services have replaced in-person doctor visits and are now serving as a significant tool in providing remote medical services to those who would otherwise be unable to receive proper medical care.



1 The legislature further finds that reliable broadband
2 access has meant the difference between an employee being
3 able to work remotely or possibly facing unemployment. Online
4 access is also a critical tool for those seeking to access
5 social services such as unemployment claims, Supplemental
6 Nutrition Assistance Program benefits, vital records, and
7 other critical government services. The ability to provide
8 the services needed relies upon the existence of a robust and
9 extensive broadband infrastructure.

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

18 The legislature strongly supports efforts to improve
19 access to broadband services for residents, consumers, and
20 businesses across the State. Although broadband coverage in
21 the State is widespread, additional investment must be made to



1 meet the needs in rural communities and enhance access for
2 those in communities that require immediate broadband
3 infrastructure.

4 The purpose of this part is to facilitate the deployment
5 of last-mile broadband infrastructure in unserved and
6 underserved areas of the State by identifying and addressing
7 any remaining obstacles to full deployment of broadband
8 infrastructure to all areas of Hawaii. More specifically,
9 this part:

10 (1) Establishes the broadband infrastructure grant
11 program to award grants to extend the deployment of
12 facilities used to provide broadband service to
13 unserved and underserved areas of the State; and

14 (2) Renames the Hawaii technology loan revolving fund to
15 the Hawaii broadband infrastructure special fund and
16 changes the types of funds to be deposited into the
17 fund.

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 A

2 BROADBAND INFRASTRUCTURE GRANT PROGRAM

3 §A-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" does 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 **§A-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 **SA-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 **SA-4 Eligible applicants.** To be eligible for a grant, an
8 applicant shall:

- 9 (1) Commit to paying a minimum of sixty per cent of the
10 total project costs out of the applicant's own funds;
11 and
12 (2) Be a non-governmental entity with demonstrated
13 experience in providing broadband service, broadband
14 infrastructure, or other communication services to
15 residential customers within the State.

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



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

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



- 1 portion of the matching funds are derived from any
2 state government grant, loan, or subsidy;
- 3 (8) Evidence demonstrating the economic and commercial
4 feasibility of the project;
- 5 (9) A list of all expected government authorizations,
6 permits, and other approvals required for the project
7 and a timeline for the applicant's acquisition of the
8 approvals;
- 9 (10) A certification that no other federal or state program
10 provides funding that is available to the applicant
11 for the project; and
- 12 (11) Any other information deemed necessary by the
13 department.

14 **SA-6 Review of applications; confidential treatment;**
15 **approval.** (a) Within five business days following the last day
16 of the time period for submission of applications to the
17 program, the department shall make all of the applications
18 available for review in a publicly available electronic file
19 posted on the department's website.

20 (b) To the extent the information in an application or
21 challenge falls under one or more of the exceptions to public

1 disclosure in section 92F-13 or comprises commercially sensitive
2 information, including information regarding the location of
3 critical infrastructure, addresses of locations capable of
4 receiving service under an existing provider's standard
5 installation intervals, number of actual subscribers, subscriber
6 addresses, non-public internal financial or network cost
7 information, or vendor agreements, the department shall keep the
8 information confidential upon request by:

9 (1) An applicant for confidential treatment of an
10 application, except that in no event shall a request
11 for confidentiality prevent the publicly available
12 portion of the application from including sufficient
13 evidence to demonstrate the requirements of
14 section A-5(b) (2) and A-5(b) (4); or

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

17 (c) A broadband service provider that provides service
18 within or directly adjacent to a proposed project area may
19 submit a written challenge to any application within
20 forty-five days of the department making the applications



1 available for review pursuant to subsection (a). The challenge
2 may:

3 (1) Dispute an applicant's certification that a proposed
4 project area is an unserved or underserved area or
5 that no other federal or state program provides
6 funding that is available to the applicant for a
7 project for which program support is sought;

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

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

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

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



- 1 (1) Projects proposing to serve a larger unserved or
2 underserved geographic area;
- 3 (2) Applicants with more experience and technical ability
4 to successfully deploy and provide broadband service
5 and more financial resources available to finance the
6 project;
- 7 (3) Projects for which fewer government funds and less
8 support are necessary to deploy broadband
9 infrastructure in an economically feasible manner;
- 10 (4) Projects with a higher amount of matching funds
11 proposed to be committed by the applicant;
- 12 (5) High service speed thresholds proposed in the
13 application and high scalability of the broadband
14 infrastructure proposed to be deployed;
- 15 (6) Applicants with a high ability to leverage nearby or
16 adjacent broadband infrastructure to facilitate the
17 proposed deployment of service to households;
- 18 (7) Projects that do not duplicate any existing broadband
19 infrastructure in the project area; and
- 20 (8) Other factors the department determines to be
21 reasonable, appropriate, and consistent with the



1 purpose of facilitating the deployment of broadband
2 infrastructure to unserved or underserved areas.

3 **SA-7 Departmental authority.** The department may:

4 (1) Following notice and an opportunity to cure, require
5 disgorgement of grant funds in response to an
6 applicant's pattern of failure to build out a project
7 area in accordance with the timelines and milestones
8 set forth in its application;

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

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

14 (4) Impose any new or additional regulatory requirements
15 on grant recipients, through grant agreements or any
16 other mechanism, in addition to the program
17 implementation rules expressly authorized in this
18 chapter; and

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



1 **SA-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 shall:

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

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

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

13 "[~~f~~]**\$206M-15.6**[~~}]~~ Hawaii [~~technology loan revolving~~]
14 **broadband infrastructure special fund.** There is established the
15 Hawaii [~~technology loan revolving~~] broadband infrastructure
16 special fund for the purpose of investing in [~~technology~~
17 ~~development~~] broadband infrastructure in [~~Hawaii.~~] the State.

18 The following shall be deposited into the Hawaii [~~technology~~
19 ~~loan revolving~~] broadband infrastructure special fund:

20 (1) Appropriations from the legislature;

21 [~~2~~] ~~Moneys received as repayments of loans;~~



- 1 ~~(3) Investment earnings;~~
 2 ~~(4) Royalties;~~
 3 ~~(5) Premiums, or fees or equity charged by the~~
 4 ~~corporation, or otherwise received by the corporation;~~
 5 and
 6 ~~(6) Loans that are convertible to equity;]~~
 7 (2) Funds received from the federal government; and
 8 (3) Funds received from the private sector;

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

11 SECTION 4. Within twelve months following the effective
 12 date of this Act, the department of business, economic
 13 development, and tourism shall adopt rules pursuant to
 14 chapter 91 and section A-8, Hawaii Revised Statutes, to
 15 implement the broadband infrastructure grant program; provided
 16 that any rules adopted pursuant to this section shall include
 17 rules regarding the submission, review, and approval of
 18 applications; administration of the projects funded; and grant
 19 agreements memorializing the award of funds.

20 SECTION 5. There is appropriated out of the funds received
 21 by the State of Hawaii from the American Rescue Plan Act



1 of 2021, Public Law 117-2 (Section 9901), the sum of \$5,000,000
2 or so much thereof as may be necessary for fiscal year 2021-2022
3 to be used for the broadband infrastructure grant program
4 established by this part.

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

8 PART II

9 SECTION 6. The purpose of this part is to:

10 (1) Establish the Hawaii broadband and digital equity
11 office within the department of business, economic
12 development, and tourism; and

13 (2) Require the governor to appoint a strategic
14 broadband coordinator to head the Hawaii broadband
15 and digital equity office.

16 SECTION 7. The Hawaii Revised Statutes is amended by
17 adding a new chapter to be appropriately designated and to read
18 as follows:

19 "CHAPTER B

20 HAWAII BROADBAND AND DIGITAL EQUITY OFFICE

21 SB-1 Definitions. As used in this chapter:



1 "Broadband" means high-speed internet access that is always
2 on, including mobile and fixed technologies.

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

5 "Digital equity" means a condition in which all individuals
6 and communities have the information technology capacity needed
7 for full participation in society, democracy, and the economy.

8 "Office" means the Hawaii broadband and digital equity
9 office.

10 **§B-2 Hawaii broadband and digital equity office;**

11 **establishment; strategic broadband coordinator; staff.** (a)

12 There is established the Hawaii broadband and digital equity
13 office within the department of business, economic development,
14 and tourism.

15 (b) The governor, upon the advice and consent of the
16 senate, shall appoint a strategic broadband coordinator, who
17 shall be exempt from chapter 76, to head the office.

18 **§B-3 Hawaii broadband and digital equity office; duties.**

19 In furtherance of the State's objectives and policies for the
20 economy pursuant to section 226-10.5, the office shall:



- 1 (1) Develop and implement specific strategies and plans to
2 aggressively increase broadband affordability,
3 penetration, and competitive availability in the
4 State;
- 5 (2) Support the efforts of both public and private
6 entities in the State to enhance or facilitate the
7 deployment of and access to competitively priced,
8 advanced electronic communications services, including
9 broadband and its products and services and internet
10 access services of general application throughout the
11 State;
- 12 (3) Promote the landing of trans-Pacific submarine cable,
13 including the development of a shared access cable
14 station and associated terrestrial connectivity to
15 reduce barriers to fiber landing in Hawaii;
- 16 (4) Promote, advocate, and facilitate the implementation
17 of the findings and recommendations of the Hawaii
18 broadband task force established by Act 2, First
19 Special Session Laws of Hawaii 2007, and the 2020
20 Hawaii Broadband Strategic Plan;



- 1 (5) Support the findings of the community-based Broadband
- 2 Hui as reflected in its digital equity declaration;
- 3 (6) Administer grant programs in support of broadband
- 4 infrastructure, innovation, and the digital economy;
- 5 (7) Actively seek out funding from public and private
- 6 sources in furtherance of the office's duties pursuant
- 7 to this section; and
- 8 (8) Provide a repository, aggregation point, and
- 9 governance framework for broadband mapping and digital
- 10 equity data from various sources, including digital
- 11 literacy, telehealth, distance education, remote work,
- 12 internet accessibility, and service coverage to
- 13 support mapping, reporting, infrastructure deployment,
- 14 and data-driven policy.

15 **§B-4 Broadband planning and coordination; cooperation.**

- 16 (a) The office shall:
- 17 (1) Seek input and the widest possible cooperation from
- 18 public and private agencies and individuals to achieve
- 19 the purposes of this chapter;



- 1 (2) Work closely with and assist the counties in the
2 promotion of coordinated state and county broadband
3 planning;
- 4 (3) Encourage every state department, county agency, and
5 other public or private agencies and individuals
6 involved in broadband programs to participate in the
7 activities of the office and incorporate, to the
8 extent feasible, the ideas and suggestions of the
9 participants in the office's comprehensive planning
10 goals;
- 11 (4) Monitor the broadband-based development efforts of
12 other states and nations in areas such as business,
13 education, and health;
- 14 (5) Advise the department on other states' best practices
15 involving remote work promotion and policies and
16 strategies related to making affordable broadband
17 services available to every home and business in the
18 State;
- 19 (6) Monitor broadband-related activities at the federal
20 level;



H.B. NO.

1191
H.D. 2
S.D. 2
C.D. 1

APPROVED this 06 day of JUL , 2021

A handwritten signature in black ink, appearing to read "David Y. Ige". The signature is written in a cursive style with a large, sweeping flourish at the end.

GOVERNOR OF THE STATE OF HAWAII

HB No. 1191, HD 2, SD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI'I

Date: April 27, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2021.


President of the Senate


Clerk of the Senate