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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) Amends the Hawaii technology loan revolving fund by  
11 changing it to the Hawaii broadband infrastructure  
12 fund and changing the types of funds to be deposited  
13 into the 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:



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

7 **§ -2 Broadband infrastructure grant program;**  
8 **establishment.** There is established the broadband  
9 infrastructure grant program within the department of business,  
10 economic development, and tourism for administrative purposes.  
11 The department shall receive and review grant applications and  
12 may award grants for eligible projects pursuant to the program.

13 **§ -3 Eligible projects.** The department may award grants  
14 for eligible projects; provided that on the date the application  
15 is submitted, the area to be served by the project shall be an  
16 unserved area; provided further that no funds shall be used to  
17 support any project involving the upgrade of an existing  
18 broadband plant by an applicant and shall not include any  
19 portion of an area that is partially served by an existing  
20 provider.



1           §   -4 **Eligible applicants.** To be eligible for a grant,  
2 an applicant shall:

3           (1) Commit to paying a minimum of forty per cent of the  
4 total project costs out of the applicant's own funds;  
5 and

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

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

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

17           (1) Evidence demonstrating the applicant's experience and  
18 ability to build, operate, and manage broadband  
19 infrastructure servicing residential customers;

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



- 1 (3) A description of the broadband infrastructure that is  
2 proposed to be deployed, including facilities,  
3 equipment, and network capabilities, including minimum  
4 speed thresholds;
- 5 (4) Evidence, including certification from the applicant,  
6 demonstrating the unserved nature of the project area;
- 7 (5) The number of households in each unserved area that  
8 would gain access to broadband service as a result of  
9 the project;
- 10 (6) The total cost and timeline for completion of the  
11 project;
- 12 (7) The amount of matching funds that the applicant  
13 proposes to contribute and a certification that no  
14 portion of the matching funds are derived from any  
15 state government grant, loan, or subsidy;
- 16 (8) Evidence demonstrating the economic and commercial  
17 feasibility of the project;
- 18 (9) A list of all expected government authorizations,  
19 permits, and other approvals required for the project  
20 and a timeline for the applicant's acquisition of the  
21 approvals; and



1 (10) Any other information deemed necessary by the  
2 department.

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

8 (b) The department shall treat any information in an  
9 application or a challenge that is not publicly available as  
10 confidential and containing trade secrets not subject to  
11 disclosure under state law upon request by:

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

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

20 (c) A broadband service provider that provides service  
21 within or directly adjacent to a proposed project area may



1 submit a written challenge to any application within forty-five  
2 days of the department making the applications available for  
3 review pursuant to subsection (a). The challenge may:

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

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

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

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

18 (e) The department shall award program grants based on a  
19 scoring system that shall be released to the public at least  
20 thirty days prior to the first day of the time period for



1 submission of applications. The scoring system shall give the  
2 highest weight or priority to the following:

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



1 (8) Other factors the department determines to be  
2 reasonable, appropriate, and consistent with the  
3 purpose of facilitating the deployment of broadband  
4 infrastructure to unserved areas.

5 § -7 **Departmental authority.** The department may:

- 6 (1) Following notice and an opportunity to cure, require  
7 disgorgement of grant funds in response to an  
8 applicant's pattern of failure to build-out a project  
9 area in accordance with the timelines and milestones  
10 set forth in its application;
- 11 (2) Consider an applicant's financial ability to complete  
12 the project proposed in an application;
- 13 (3) Make reasonable requests for information necessary for  
14 the oversight and administration of any project funded  
15 pursuant to this chapter;
- 16 (4) Impose any new or additional regulatory requirements  
17 on grant recipients, through grant agreements or any  
18 other mechanism, in addition to the program  
19 implementation rules expressly authorized in this  
20 chapter; and

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

3 § -8 Rules. The department shall adopt rules pursuant  
4 to chapter 91 to effectuate the purposes of this chapter.

5 The rules shall:

- 6 (1) Include reasonable oversight and reporting provisions
- 7 to ensure that grant moneys are used as intended; and
- 8 (2) Not impose any financial penalty or liquidated damages
- 9 provisions or provisions that are not reasonably
- 10 related to the deployment of broadband infrastructure
- 11 in the State in accordance with this chapter."

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

14 "[+]§206M-15.6[+] **Hawaii [~~technology loan revolving~~]**  
 15 **broadband infrastructure fund.** There is established the Hawaii  
 16 [~~technology loan revolving~~] broadband infrastructure fund for  
 17 the purpose of investing in [~~technology development~~] broadband  
 18 infrastructure in [~~Hawaii.~~] the State. The following shall be  
 19 deposited into the Hawaii [~~technology loan revolving~~] broadband  
 20 infrastructure fund:

- 21 (1) Appropriations from the legislature;



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

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

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



1 SECTION 5. The director of finance is authorized to issue  
2 general obligation bonds in the sum of \$5,000,000 or so much  
3 thereof as may be necessary and the same sum or so much thereof  
4 as may be necessary is appropriated for fiscal year 2021-2022  
5 for the purpose of the broadband infrastructure grant program  
6 established by this Act.

7 SECTION 6. The appropriation made for the capital  
8 improvement project authorized by this Act shall not lapse at  
9 the end of the fiscal biennium for which the appropriation is  
10 made; provided that all moneys from the appropriation  
11 unencumbered as of June 30, 2024, shall lapse as of that date.

12 SECTION 7. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 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. Amends the Hawaii technology loan revolving fund to change it to the Hawaii broadband infrastructure fund, including the types of funds deposited into the fund. Authorizes the issuance of general obligation bonds for the broadband infrastructure grant program. Effective 7/1/2050. (HD1)

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

