

JAN 27 2021

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# A BILL FOR AN ACT

RELATING TO BROADBAND.

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

1           SECTION 1. The legislature finds that the economic and  
2 business incentives to deploy broadband infrastructure may be  
3 insufficient to ensure full access to broadband services in low-  
4 density, rural locations and other unserved and underserved  
5 areas of the State where the unit costs of providing service may  
6 not provide an adequate return on investment.

7           Economically feasible deployment of infrastructure for  
8 high-speed broadband across the State, especially to low  
9 population density areas, presents a more formidable challenge  
10 than faced by most states, which are part of one continental  
11 land mass. The unique geography of our State prevents the use  
12 of less costly options for connectivity.

13           Access to broadband services in unserved and underserved  
14 areas of Hawaii would enhance economic development, education,  
15 health care, and emergency services in those areas. The  
16 availability of grants for deployment to unserved and



1 underserved areas would further those objectives by encouraging  
2 new investment in broadband infrastructure.

3 The legislature strongly supports efforts to improve access  
4 to broadband services for residents across the State and efforts  
5 that benefit consumers and businesses in accessing services.

6 Although broadband coverage in the State is widespread,  
7 additional investment can be made to keep up with needs in rural  
8 communities to bridge the digital divide.

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

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

20 "CHAPTER

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

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

11           "Project" means a proposed deployment of broadband  
12 infrastructure set forth in an application for grant funding  
13 authorized under this chapter.

14           "Project area" means a census block or aggregation of  
15 adjacent census blocks proposed to be covered in an application  
16 for grant funding authorized under this chapter.

17           "Underserved area" means a project area with access to  
18 broadband service that the minimum upload and download speeds  
19 are less than double the minimum upload and download speeds  
20 required for broadband service.



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

3 § -2 **Establishment of the broadband infrastructure grant**  
4 **program.** There is established the broadband infrastructure  
5 grant program to be placed in the department of business,  
6 economic development, and tourism for administrative purposes.  
7 The department shall receive and review grant applications and  
8 may award grants for eligible projects pursuant to the program.

9 § -3 **Eligible projects.** The department may award grants  
10 for eligible projects; provided that on the date the application  
11 is submitted, the area to be served by the project shall be an  
12 unserved area or underserved area.

13 § -4 **Eligible applicants.** To be eligible for a grant,  
14 an applicant shall:

- 15 (1) Commit to paying a minimum of fifty per cent of the  
16 project costs out of the applicant's own funds;
- 17 (2) Be any 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) Commit to complying with net neutrality principles as  
2           defined by Executive Order No. 18-02.

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 not less than sixty and not more than  
7 ninety days.

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

10          (1) Evidence demonstrating the applicant's experience and  
11           ability in building, operating, and managing broadband  
12           infrastructure serving residential customers;

13          (2) A description of the project area, including a list of  
14           census blocks covered by the proposed deployment. If  
15           a census block included in a project is partially  
16           served by a provider of broadband service, the  
17           application shall include:

18           (A) A description of the portions of the census block  
19           that are served;



- 1           (B) A description of the portions of the census block
- 2                   that constitute an unserved area or underserved
- 3                   area; and
- 4           (C) A certification that no portion of the grant
- 5                   provided by the program for the project shall be
- 6                   used to extend or deploy facilities to any
- 7                   already-served households;
- 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:
- 16            (A) Unserved area that would gain access to broadband
- 17                  service; and
- 18            (B) Underserved area that would gain access to
- 19                  broadband service with minimum upload and
- 20                  download speeds that are equal to or more than



- 1 double the minimum upload and download speeds
- 2 required for broadband service,
- 3 as a result of the grant;
- 4 (6) The total cost of the project and the timeframe in
- 5 which it will be completed;
- 6 (7) The amount of matching funds the applicant proposes to
- 7 contribute;
- 8 (8) Evidence demonstrating the economic and commercial
- 9 feasibility of the project;
- 10 (9) A list of all government authorizations, permits, and
- 11 other approvals required for the project and a
- 12 timetable for the applicant's acquisition of the
- 13 approvals; and
- 14 (10) Any other information required by the department.

15 **§ -6 Review of applications; approval.** (a) Within five  
16 business days following the last day of the time period for  
17 submission of applications, the department shall make the  
18 applications available for review in a publicly available  
19 electronic file.

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



1 submit, within forty-five days of the department making the  
2 applications available for review in a publicly available  
3 electronic file, a written challenge to any application. The  
4 challenge may:

5 (1) Dispute an applicant's certification that a proposed  
6 project area is an unserved area or underserved area;  
7 or

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

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

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



- 1           (1) Larger unserved area or underserved area proposed to  
2           be served;
- 3           (2) Projects that do not duplicate any existing broadband  
4           infrastructure in the project area;
- 5           (3) Applicants with demonstrated experience and technical  
6           ability to successfully deploy, operate, and maintain  
7           broadband infrastructure;
- 8           (4) Projects in unserved areas, rather than those in  
9           underserved areas;
- 10          (5) Projects in which fewer government funds and less  
11          support are necessary to deploy broadband  
12          infrastructure in an economically feasible manner;
- 13          (6) Projects with more matching funds proposed to be  
14          committed by the applicant;
- 15          (7) High service speed thresholds proposed in the  
16          application and high scalability of the broadband  
17          infrastructure proposed to be deployed to speeds more  
18          than the minimum upload and download speeds required  
19          for broadband service;
- 20          (8) Applicants with a high ability to leverage nearby or  
21          adjacent broadband infrastructure to facilitate the



1 proposed deployment and provision of service to  
2 households; and  
3 (9) Other factors the department determines to be  
4 reasonable and appropriate, consistent with the  
5 purpose of facilitating the economic deployment of  
6 broadband infrastructure to unserved and underserved  
7 areas.

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

10 § -7 Departmental authority. The department may:

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

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



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

5           § -8 Rules. The department shall adopt rules pursuant  
6 to chapter 91 to effectuate the purposes of this chapter."

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

14           SECTION 4. There is appropriated out of the general  
15 revenues of the State of Hawaii the sum of \$                    or so  
16 much thereof as may be necessary for fiscal year 2021-2022 and  
17 the same sum or so much thereof as may be necessary for fiscal  
18 year 2022-2023 for the establishment and administration of the  
19 broadband infrastructure grant program established by this Act.



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

4           SECTION 5. This Act shall take effect on July 1, 2021.

5

INTRODUCED BY: \_\_\_\_\_

A large, stylized handwritten signature in black ink is written over the line following "INTRODUCED BY:". The signature is highly cursive and difficult to decipher.

# S.B. NO. 1296

**Report Title:**

Broadband Infrastructure; Grant Program; Department of Business, Economic Development, and Tourism; Appropriation

**Description:**

Establishes a broadband infrastructure grant program to be administered by the department of business, economic development, and tourism. Makes an appropriation.

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

