

JAN 22 2021

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 our
4 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 Reliable broadband access has meant the difference
17 between an employee being able to work remotely or possibly



1 facing unemployment. Online access is also a critical tool
2 for those seeking to access social services such as
3 unemployment claims, Supplemental Nutrition Assistance
4 Program benefits, vital records, and other critical government
5 services. The ability to provide the services needed relies
6 upon the existence of a robust and extensive broadband
7 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 "Broadband infrastructure" shall have the same meaning as
2 in section 440J-1.

3 "Broadband service" shall have the same meaning as
4 "broadband access or broadband service" in section 440J-1 but
5 does not include wireless network infrastructure or
6 facilities used to provide wireless services over licensed
7 spectrum.

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

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

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

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

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

20 "Shapefile" includes several component files, including a main
21 file (.shp), Index file (.shx), and dBASE table (.dbf).



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

3 § -2 **Broadband infrastructure grant program;**
4 **establishment.** There is established the broadband
5 infrastructure grant program within 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; provided further that no funds shall be used to
13 support any project involving the upgrade of an existing
14 broadband plant by an applicant and shall not include any
15 portion of an area that is partially served by an existing
16 provider.

17 § -4 **Eligible applicants.** To be eligible for a grant,
18 an applicant shall:

- 19 (1) Commit to paying a minimum of forty per cent of the
20 total project costs out of the applicant's own funds;
21 and



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

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

10 (b) The form of the application shall be as prescribed by
11 the department and shall include submission of:

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

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

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



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

20 § -6 Review of applications; approval. (a) Within five
21 business days following the last day of the time period for



1 submission of applications to the program, the department shall
2 make all of the applications available for review in a publicly
3 available electronic file posted on the department's website.

4 (b) The department shall treat any information in an
5 application or a challenge that is not publicly available as
6 confidential and subject to the trade secrets protections under
7 state law upon request by:

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

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

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



- 1 (1) Dispute an applicant's certification that a proposed
2 project area is an unserved area or that no other
3 federal or state program provides funding that is
4 available to the applicant for a project for which
5 program support is sought;
- 6 (2) Attest to the challenging provider's existing or
7 planned provision of broadband service within the
8 applicant's proposed project area; or
- 9 (3) Attest that the project may jeopardize the eligibility
10 of federal funding for the challenging provider.
- 11 (d) 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 underserved areas.
- 15 (e) The department shall award program grants based on a
16 scoring system that shall be released to the public at least
17 thirty days prior to the first day of the time period for
18 submission of applications. The scoring system shall give the
19 highest weight or priority to the following specific criteria:
- 20 (1) Projects proposing to serve a larger unserved
21 geographic area;



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



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

19 **§ -8 Rules.** The department shall adopt rules pursuant

20 to chapter 91 to effectuate the purposes of this chapter.

21 The rules shall:



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

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

9 " ~~[†] §206M-15.6 [†]~~ Hawaii ~~[technology loan revolving]~~
 10 broadband infrastructure fund. There is established the Hawaii
 11 ~~[technology loan revolving]~~ broadband infrastructure fund for
 12 the purpose of investing in ~~[technology development]~~ broadband
 13 infrastructure in ~~[Hawaii.]~~ the State. The following shall be
 14 deposited into the Hawaii ~~[technology loan revolving]~~ broadband
 15 infrastructure fund:

- 16 (1) Appropriations from the legislature;
- 17 ~~[-(2) Moneys received as repayments of loans;~~
- 18 ~~[-(3) Investment earnings;~~
- 19 ~~[-(4) Royalties;~~



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1 ~~(5) Premiums, or fees or equity charged by the~~
 2 ~~corporation, or otherwise received by the corporation,~~
 3 and

4 ~~(6) Loans that are convertible to equity,]~~

5 (2) Funds received from the federal government;

6 (3) Funds received from a county; and

7 (4) Funds received from the private sector;

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

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

19 SECTION 5. The director of finance is authorized to issue
 20 general obligation bonds in the sum of \$5,000,000 or so much
 21 thereof as may be necessary and the same sum or so much thereof



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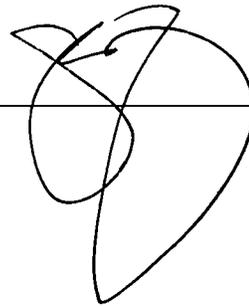
1 as may be necessary is appropriated for fiscal year 2021-2022
2 for the purpose of the broadband infrastructure grant program
3 established by this Act.

4 SECTION 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect on July 1, 2021.

7

INTRODUCED BY: _____

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S.B. NO. 917

Report Title:

Broadband Infrastructure Grant Program; Unserved Areas; Hawaii
Broadband Infrastructure Fund; 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.

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

