
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 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, because the unique geography of our State prevents
12 the use of less costly options for connectivity.

13 Access to broadband services in unserved and underserved
14 areas in Hawaii would enhance economic development, education,
15 health care, and emergency services in the State. 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 and
17 shall not provide a minimum matching amount from any
18 funds derived from federal or state government grants,
19 loans, or subsidies;

20 (2) Be any non-governmental entity with demonstrated
21 experience in providing broadband service, broadband



1 infrastructure, or other communication services to
2 residential customers within the State; and

3 (3) Commit to complying with net neutrality principles as
4 defined by Executive Order No. 18-02.

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

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

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

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

20 (A) A description of the portions of the census block
21 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 and a certification that no portion of the
8 matching funds are derived from any federal or state
9 government grants, loans, or subsidies;

10 (8) Evidence demonstrating the economic and commercial
11 feasibility of the project;

12 (9) A list of all government authorizations, permits, and
13 other approvals required for the project and a
14 timetable for the applicant's acquisition of the
15 approvals; and

16 (10) Any other information required by the department.

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



1 (b) A broadband service provider that provides service
2 within or directly adjacent to a proposed project area may
3 submit, within forty-five days of the department making the
4 applications available for review in a publicly available
5 electronic file, a written challenge to any application. The
6 challenge may:

- 7 (1) Dispute an applicant's certification that a proposed
8 project area is an unserved area or underserved area,
9 or that no other federal or state programs provide
10 funding that is available to the applicant for a
11 project for which program support is sought; or
12 (2) Attest to the challenging provider's existing or
13 planned provision of broadband service within the
14 applicant's proposed project area.

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

19 (d) The department shall award grants for projects set
20 forth in applications based upon a scoring system that shall be
21 released to the public at least thirty days prior to the first



1 day of the time period for submission of applications. The
2 scoring system shall give the highest weight or priority to the
3 specific criteria enumerated as follows:

- 4 (1) Larger unserved area or underserved area proposed to
5 be served;
- 6 (2) Applicants with more experience and technical ability
7 to successfully deploy and provide broadband service
8 and more financial resources available to finance the
9 project;
- 10 (3) Projects in which fewer government funds and less
11 support are necessary to deploy broadband
12 infrastructure in an economically feasible manner;
- 13 (4) Projects with more matching funds proposed to be
14 committed by the applicant;
- 15 (5) Projects in unserved areas, rather than those in
16 underserved areas;
- 17 (6) High service speed thresholds proposed in the
18 application and high scalability of the broadband
19 infrastructure proposed to be deployed to speeds more
20 than the minimum upload and download speeds required
21 for broadband service;



1 (7) Applicants with a high ability to leverage nearby or
2 adjacent broadband infrastructure to facilitate the
3 proposed deployment and provision of service to
4 households;

5 (8) Projects that do not duplicate any existing broadband
6 infrastructure in the project area; and

7 (9) Other factors the department determines to be
8 reasonable and appropriate, consistent with the
9 purpose of facilitating the economic deployment of
10 broadband infrastructure to unserved and underserved
11 areas.

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

14 **§ -7 Departmental authority.** The department may:

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

20 (2) Consider an applicant's financial ability to complete
21 the project proposed in an application and make



1 reasonable requests for information necessary for the
2 oversight and administration of any project funded
3 pursuant to this chapter; and

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

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 on the State in accordance with this chapter."

18 SECTION 3. Within one hundred eighty days of the approval
19 of this Act, the department of business, economic development,
20 and tourism shall adopt rules pursuant to chapter 91, Hawaii
21 Revised Statutes, to implement the broadband infrastructure



1 grant program including rules regarding the submission, review,
2 and approval of applications; administration of projects funded;
3 and grant agreements memorializing the award of funds.

4 SECTION 4. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$ or so much
6 thereof as may be necessary for fiscal year 2019-2020 for the
7 establishment and administration of the broadband infrastructure
8 grant program established by this Act.

9 The sum appropriated shall be expended by the department of
10 business, economic development, and tourism for the purposes of
11 this Act.

12 SECTION 5. This Act shall take effect on July 1, 2050;
13 provided that section 4 shall take effect on July 1, 2050.



S.B. NO. 553
S.D. 2

Report Title:

Broadband Infrastructure Grant Program; Unserved and Underserved Areas; 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 and underserved areas of the State. Makes an appropriation. Effective 7/1/2050.
(SD2)

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