



GOV. MSG. NO. 1359

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

July 9, 2024

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

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

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

I am transmitting herewith HB2359, without my approval and with the statement of objections relating to the measure.

HB2359

RELATING TO THE HAWAII BROADBAND AND
DIGITAL EQUITY OFFICE.

Sincerely,

Josh Green, M.D.
Governor, State of Hawai'i

EXECUTIVE CHAMBERS

HONOLULU

July 9, 2024

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 2359

Honorable Members
Thirty-Second Legislature
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, House Bill No. 2359, entitled "A Bill for an Act Relating to the Hawaii Broadband and Digital Equity Office."

The purpose of this bill is to establish the Digital Equity Grant Program to award grants to applicants to deploy digital equity projects to covered populations in the State.

This bill is objectionable because it would inhibit the development of small-scale, community-based networks in historically disadvantaged communities in Hawai'i. While the State Digital Equity Plan, developed by the Hawaii Broadband and Digital Equity Office, is a roadmap for achieving digital equity baseline across the islands, the bill excludes the deployment of broadband infrastructure and wireless community networks from eligible projects. These providers, although potentially large, should be permitted to participate in the Digital Equity Grant Program in order to best develop community-based networks in historically disadvantaged communities.

For the foregoing reasons, I am returning House Bill No. 2359 without my approval.

Respectfully,



JOSH GREEN, M.D.
Governor of Hawai'i

A BILL FOR AN ACT

RELATING TO THE HAWAII BROADBAND AND DIGITAL EQUITY OFFICE.

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

1 SECTION 1. The legislature finds that digital equity in
2 every community across the State is essential to the well-being
3 and economic reality of the State's residents. The need for
4 digital equity is significant, highlighted by the devastating
5 impacts of the recent coronavirus disease 2019 pandemic. The
6 lack of digital equity has had a tremendous adverse effect in
7 many areas, but particularly for rural and socio-economically
8 disadvantaged communities.

9 The legislature also finds that digital equity has meant
10 the difference between an employee being able to work remotely
11 and an employee possibly facing unemployment. Additionally,
12 digital literacy and broadband access are critical tools for
13 persons seeking to access social services, such as unemployment
14 claims; supplemental nutrition assistance program benefits;
15 vital records; and other essential government, educational, and
16 medical services.



1 (7) Individuals who are members of a racial or ethnic
2 minority group;

3 (8) Individuals who primarily reside in a rural area; and

4 (9) Homeless or unsheltered individuals.

5 "Department" means the department of business, economic
6 development, and tourism.

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

10 "Digital equity services" means services that increase
11 digital literacy in broadband access for covered populations.

12 "Digital literacy" means the skills associated with using
13 technology to enable users to find, evaluate, organize, create,
14 and communicate information.

15 "Office" means the Hawaii broadband and digital equity
16 office.

17 "Program" means the digital equity grant program
18 established by this chapter.

19 "Project" means a digital equity project set forth in an
20 application for grant funding authorized under this chapter.



1 "Project area" means an area that is proposed to be covered
2 in an application for grant funding authorized under this
3 chapter.

4 "Rural area" means an area that qualifies as rural pursuant
5 to a federal definition. If an area does not qualify as rural
6 pursuant to a federal definition, the following definitions may
7 be used for determining the area's rural status for the purposes
8 of this chapter:

- 9 (1) Any island with a population density fewer than or
10 equal to five hundred residents per square mile shall
11 be considered rural; and
- 12 (2) If an island's population density exceeds five hundred
13 residents per square mile, an area within the island
14 shall be considered rural if it is within a zip code
15 tabulation area with a population density below eight
16 hundred residents per square mile, as determined by
17 the population of the last official census and using
18 the entire zip code tabulation area as determined by
19 the United States Census Bureau.

20 "State digital equity plan" means the digital equity
21 strategies and implementation plan developed by the office.



1 § -2 **Digital equity grant program; establishment.** There
2 is established the digital equity grant program to be
3 implemented and administered by the office. The office shall
4 receive and review grant applications and may award grants for
5 eligible projects pursuant to the program.

6 § -3 **Eligible projects.** The office may award grants for
7 eligible projects; provided that on the date the application is
8 submitted, the project areas to be served by the project shall
9 include covered populations. The eligible projects may include
10 projects that further develop and promote digital literacy,
11 broadband affordability, digital navigators, access to digital
12 devices, broadband service subscription costs, wifi routers,
13 access points, and other innovative digital inclusion projects.
14 Projects that include the deployment of broadband infrastructure
15 shall be ineligible.

16 § -4 **Applicant preference.** In making awards, the office
17 shall give preference to applicants that are nonprofit, non-
18 governmental entities that have demonstrated experience in
19 providing digital equity services to covered populations.
20 Governmental agencies may apply and shall be evaluated on a
21 case-by-case basis.



1 § -5 Applications. (a) The office shall establish an
2 annual time period during which it shall accept applications for
3 funding under the program. The time period for accepting
4 applications shall be no less than sixty days and no more than
5 ninety days.

6 (b) The form of the application shall be as prescribed by
7 the office, and the application shall include:

- 8 (1) Evidence demonstrating the applicant's experience and
9 ability to plan, organize, staff, and deliver digital
10 equity services to covered populations within the
11 State;
- 12 (2) A description of the project area and covered
13 population to be served;
- 14 (3) A description of the project that is proposed to be
15 deployed, including specific measurable goals to
16 increase digital literacy and broadband access,
17 methods, metrics, facilities, equipment, staff, and
18 resources;
- 19 (4) A plan to tailor public awareness and outreach to
20 include non-English-speaking covered populations with



- 1 consideration for linguistic, cultural, generational,
2 and literacy challenges;
- 3 (5) Evidence that is certified by the applicant and
4 demonstrates the nature of the current digital
5 inequity in the proposed project area and covered
6 population;
- 7 (6) The number of individuals in each covered population
8 that would gain access to broadband services as a
9 result of the project;
- 10 (7) The total cost and timeline for completion of the
11 project;
- 12 (8) 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 (9) Evidence demonstrating the economic feasibility of the
17 project;
- 18 (10) A direct linkage to the state digital equity plan;
- 19 (11) A certification that no other funding from any federal
20 or state program is available to the applicant for the
21 project;



- 1 (12) A certification that all activities undertaken for the
2 project shall comply with all applicable federal,
3 state, and county laws;
- 4 (13) A certification that the applicant shall indemnify and
5 hold harmless the State and its officers, agents, and
6 employees from and against any and all claims arising
7 out of or resulting from the project and procure
8 sufficient insurance to provide this indemnification
9 if requested to do so by the office; provided that
10 this paragraph shall not apply to projects undertaken
11 by state government agencies;
- 12 (14) A certification that the grant shall be used
13 exclusively for the purposes of the project and not to
14 be used for purposes of entertainment or perquisites,
15 including lobbying activities;
- 16 (15) A certification that the applicant shall agree to make
17 available to the office all records the applicant may
18 have relating to the grant for the office to monitor
19 the applicant's compliance with this chapter and rules
20 adopted pursuant to this chapter; and
- 21 (16) Any other information deemed necessary by the office.



1 § -6 **Review of applications; approval.** (a) Within five
2 business days following the deadline to submit applications for
3 the program, the office shall make all the applications
4 available for review in a publicly available electronic file
5 posted on the office's or department's website.

6 (b) In reviewing applications and any challenges to the
7 applications, the office shall review the projects to ensure
8 that all awarded funds are to be used to deploy eligible
9 projects pursuant to section -3.

10 (c) The office shall award program grants based on a
11 scoring system that shall be released to the public at least
12 thirty days before the first day of the time period for the
13 submission of applications. The scoring system shall give the
14 highest weight or priority to the following:

15 (1) Projects proposing to serve larger covered
16 populations, with consideration to projects proposing
17 to serve difficult to access areas, neglected covered
18 populations, or both;

19 (2) Applicants with more experience and technical ability
20 to successfully deploy digital equity projects to



- 1 covered populations and more financial or other
2 resources available to assist the projects;
- 3 (3) Projects for which fewer government funds and less
4 support are necessary to deploy digital equity in an
5 economically feasible manner;
- 6 (4) Projects with a higher percentage of matching funds
7 proposed to be committed by the applicant;
- 8 (5) Projects that do not duplicate any existing digital
9 equity project in the project area; and
- 10 (6) Other factors the office determines to be reasonable,
11 appropriate, and consistent with the purposes of the
12 program.

13 **§ -7 Authority of the office.** The office may:

- 14 (1) Following notice and an opportunity to cure, require
15 disgorgement of grant funds in response to an
16 applicant's or a grant recipient's pattern of failure
17 to implement a project in accordance with the
18 timelines and milestones set forth in its application;
- 19 (2) Consider an applicant or a grant recipient's financial
20 ability to complete the project proposed in an
21 application;



1 (3) Request and inspect any records and information of a
2 grant recipient necessary for the oversight and
3 administration of any project funded pursuant to this
4 chapter;

5 (4) Impose any new or additional compliance requirements
6 on grant recipients, through grant agreements or any
7 other mechanism, in addition to rules adopted pursuant
8 to section -8; and

9 (5) Deny or cancel a project if the office finds the
10 project will affect federal funding opportunities.

11 § -8 Rules. (a) The department shall adopt rules
12 pursuant to chapter 91 to implement this chapter.

13 (b) The rules shall:

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

16 (2) Not impose any financial penalty or liquidated damages
17 provisions or provisions that are not reasonably
18 related to the deployment of projects in the State in
19 accordance with this chapter.

20 (c) Before January 1, 2025, the department shall adopt
21 rules pursuant to this section to implement the digital equity



1 grant program; provided that any rules adopted pursuant to this
2 subsection shall include rules regarding the submission, review,
3 and approval of applications; administration of the projects
4 funded; and grant agreements memorializing the award of funds."

5 SECTION 3. This Act shall take effect upon its approval.

APPROVED this day of , 2024

GOVERNOR OF THE STATE OF HAWAII



HB No. 2359, HD 2, SD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 1, 2024
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2024.



Scott K. Saiki
Speaker
House of Representatives

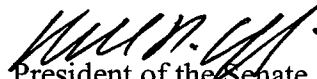



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI'I

Date: May 1, 2024
Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Second Legislature of the State of Hawai'i, Regular Session of 2024.


President of the Senate


Clerk of the Senate