



EXECUTIVE CHAMBERS

HONOLULU

NEIL ABERCROMBIE
GOVERNOR

HOUSE COMMITTEE ON FINANCE
Representative Marcus Oshiro, Chair
Representative Marilyn Lee, Vice Chair

February 27, 2012
4:00 pm Room 308

Testimony in SUPPORT on HB 2526 HD1
Relating to Reporting Requirements for Telecommunications
and Cable Television Providers

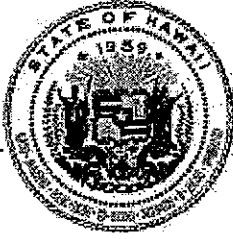
Chair Oshiro, Vice-Chair Lee, and members of the Finance Committee:

The Office of the Governor is in support of House Bill 2526, House Draft 1, Relating to Reporting Requirements for Telecommunications and Cable Television Providers. This measure will assist government in providing the infrastructure necessary for Hawai'i to thrive in the 21st century.

Broadband mapping is absolutely critical to the advancement of broadband infrastructure. Knowing where to construct new broadband facilities is at least as critical as removing roadblocks to their construction. Broadband mapping can help ensure that all citizens of Hawai'i are able to receive the benefits associated with the Hawai'i Broadband Initiative.

However, the Administration is aware of privacy concerns raised by the industry and wants to assure you that its intent is to promote the widespread use of broadband technology. We are willing to work with the industry to address their concerns.

Thank you for this opportunity to testify.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
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RICHARD C. LIM
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Statement of
RICHARD C. LIM
Director

Department of Business, Economic Development, and Tourism
before the
COMMITTEE ON FINANCE
Tuesday, February 27, 2012
4:00 PM

State Capitol, Conference Room 308

In consideration of

**HB 2526 HD1 RELATING TO REPORTING REQUIREMENTS FOR
TELECOMMUNICATIONS AND CABLE TELEVISION PROVIDERS**

Chair Oshiro, Vice Chair Lee, and Members of the Committee on Finance: Thank you for this opportunity to submit testimony on HB 2526 HD1 relating to broadband reporting requirements.

The Department of Business, Economic Development and Tourism (DBEDT) supports HB 2526 HD1. In leading the Hawaii Broadband Initiative (HBI), DBEDT requires statistical data to make accurate and timely analysis, assessments and evaluations on the status of broadband infrastructure and services that are provided and available in the State. Such analyses will also aid DBEDT greatly in its development of initiatives related to the future expansion and enhancement of broadband infrastructure and services.

Hawaii's current broadband mapping activities, as required under federal grant guidelines, compile broadband data at the census block level. With the passage of HB 2526 HD1, broadband data collected from and provided by telecommunications and cable television providers can be compiled at a more granular level. Broadband data, including but not limited to availability and pricing, could be aggregated on a more granular basis, rather than currently done at the census block level. Such broadband data will provide much greater detail of broadband penetration and availability, and will more accurately depict the status of broadband access in Hawaii.

In order to address the industry concerns, DBEDT recommends reporting of availability of service to specific number of households within a census block rather than reporting of the Tax Map Key (TMK) level data. Such a report could illustrate the extent of availability within the census block to preserve the level of privacy for clients and for the vendors, which is more useful than the current situation where the entire census block is reported as "served" even if the service is only available to one household within that block.

The Departments will continue to work with industry stakeholders on any concerns with this bill.

We respectfully request correction of the defective effective date and assure clear passage of this bill. Thank you again for this opportunity to provide comments on HB 2526 HD1.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

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KEALI'I S. LOPEZ
DIRECTOR

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Date: Monday, February 27, 2012
Time: 4:00 p.m.

TESTIMONY ON HB 2526 HD1- RELATING TO REPORTING REQUIREMENTS FOR
TELECOMMUNICATIONS AND CABLE TELEVISION PROVIDERS

TO THE HONORABLE MARCUS R. OSHIRO, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Keali'i Lopez. I am the Director of the Department of Commerce and Consumer Affairs (DCCA). The Department appreciates the opportunity to express its strong support for H.B. No. 2526 HD1.

Development of world-class communications infrastructure is vital to the future of our State's economy and to the health, welfare and quality of life of all our residents. Government must be able to understand a swiftly changing communications industry, and to continually adapt its policies and laws as technology evolves. Such efforts are critical to ensure the development of 21st century communications infrastructure and access to advanced information services throughout the State.

DCCA has been charged on several fronts with tasks to encourage and expedite broadband infrastructure development, from activities required under the Department's ARRA broadband development grant, to duties under Act 199, Session Laws of Hawaii 2010, to co-leading the Governor's Hawaii Broadband Initiative. Access to accurate and up-to-date information showing the state of the State's communications infrastructure and level of broadband service availability is key to effective policies and programs to advance broadband access, lobbying for federal funding for broadband infrastructure, and identifying the best strategies to leverage government resources and future projects to foster broadband infrastructure deployment, especially in unserved and underserved areas of the State.

As amended, this bill focuses on providing the State with more detailed information on broadband availability by type of service for the State Broadband Map, which is a project funded by the DCCA's ARRA grant. The State Broadband Map is meant to serve as a planning tool for State and local governments, and importantly, has been looked at by the Federal Communications Commission (FCC) in quantifying this State's needs for federal financial support in the context of the FCC's Universal Service Fund (USF) reform proceedings. The DCCA participated in those proceedings on behalf of the State in an attempt to seek a designation for the State that would provide access to funds for broadband infrastructure development, given the very high costs of deployment in Hawaii's rural areas. The State was handicapped, however, by its lack of reliable data to document the gaps in service in the unserved and underserved areas of the State, because our State Broadband Map currently overstates the State's

broadband availability. This is because provider information received is based upon census blocks, which means that, if one household in a census block is reported to have service, the entire census block will be shown to have service. This results in a distorted picture, of particular significance on the rural neighbor islands where census blocks are large, the need is the greatest, and the costs are extremely high.

The FCC is now developing the framework and rules for its very high cost USF program. DCCA has been informed that the FCC has tentatively concluded that the National Broadband Map, which includes our State Broadband Map, should be used to determine eligibility for very high cost USF support. Thus, the State's current inability to accurately document its unserved and underserved areas has been, and is, a huge handicap in seeking federal funds for our largely rural State. Given the high costs of building broadband infrastructure in our island state, we must have the ability to seek federal funding sources if we are to reach our broadband goals.

The information sought under this bill would provide an accurate picture of what broadband service actually exists throughout the State. This showing can be made by data at the address or tax map parcel level. This is information that should be readily available to providers. Specifically, telecommunications carriers and cable television providers would be required to provide basic information on broadband access availability and pricing, detailed by address or tax map key, and without individually identifiable information. To date, the Department has not been able to obtain this data from most (but not all) providers, because certain providers claim that this general information of service availability is confidential and proprietary.

HD1 addressed the providers' concerns on HB 2526 by (1) narrowing the information to be provided; (2) providing qualifying language that the data be reported "without any other personal or private information"; and (3) providing a blanket confidentiality provision to protect all information reported under section 2 of the bill, except for "mapping information."

At prior hearings, it was suggested that the State instead use information volunteered by residents, businesses, and community anchor institutions. The State has begun this process by mapping its community anchor institutions and launching a voluntary speed test site to collect data. However, a voluntary process of collecting data is a slow and lengthy process, relies on consumers having accurate knowledge of all types of service available to them, and most importantly, must be verified for federal funding purposes. Given the ambitious goals of the Governor and the Legislature to propel this State into a leading position for broadband speeds and availability in the very near future, accurate data is needed, and it is needed now.

It has also been suggested that the information required would invade the privacy of individual subscribers. This misconstrues the information required. The bill seeks data on where a provider's service may be made available, not the identification of subscribers who are actually provided service, i.e., subscriber information: It seeks a listing of the addresses or tax map key parcels to which the provider could make broadband service available if it were requested. If desired, this could be more clearly stated by amending section -2(a) to substitute and include the language underlined below:

§ -2 **Informational reports.** (a) Beginning on July 31, 2012, and on every January 31 thereafter, every provider shall file with the department , in a form as prescribed by the director, separate reports for each county that include broadband access availability and pricing over the most recent thirty-day period, detailed by address or tax map key parcel without any individually identifiable information.

(b) Broadband service is "available" at an address if the provider does, or could, within a typical service interval and without an extraordinary commitment of resources, provision broadband service to a subscriber at that address.

This amendment would eliminate any concern that an individual subscriber's privacy could be invaded.

The DCCA notes that, because no customer lists will be reported, the blanket confidentiality afforded to the required information appears unwarranted. The DCCA believes that confidential business information provided, if any, may be protected under HRS Chapter 92F, the Uniform Information Practices Act (Modified).

In closing, the DCCA supports any amendment to the bill that will still provide accurate and fact-based data that will allow the State to identify gaps in service in unserved or underserved areas, to seek funding sources to address the broadband infrastructure needs in those areas, and to create a statewide plan that can target the State's projects and resources to best provide for those areas. For all of the reasons stated above, the Department strongly urges passage of this bill.



**Testimony of Michael Bagley
Director of Public Policy for Verizon
Before the Committee on Finance
On H.B. 2526 HD 1
February 27, 2012**

The Honorable Marcus Oshiro
Chair
Committee on Finance
Hawaii House of Representatives

Re: H.B. 2526 HD 1 – Broadband Data Collection for DCCA

Chairman Oshiro and Members of the Committee:

On behalf of Verizon, I appreciate the opportunity to present the company's views and concerns with regard to H.B. 2526, legislation which seeks to compel private telecommunications providers to make available certain "broadband data" for the stated goal of assisting the State in moving forward with accelerated broadband deployment.

This new draft of legislation, H.B. 2526 HD 1, is the latest proposal to seek to establish heavy-handed "command and control" authority for the Department of Commerce and Consumer Affairs (DCCA) for data collection that regrettably will likely have the opposite impact with regard to intent. New authority to compel private companies to spend precious capital to respond data requests for sensitive and proprietary information sends a strong signal to the competitive wireless industry that Hawaii is a difficult State to do business in and has a heavy-handed regulatory environment. Rather than instilling confidence in businesses, which are already working to expand broadband deployment during a difficult national recession, H.B. 2526 HD 1 gives businesses reason to pause and may actually become a vehicle to slow broadband investment.

If legislation like this bill becomes law, it will most certainly not help Hawaii become the leader in broadband deployment in the country, but will help the State be known as the leader in unnecessary burdensome and unproductive bureaucracy. Using a hammer like this bill to force competitive high technology companies to do anything doesn't work and doesn't make sense. Unless the DCCA plans to start its own broadband company, and it isn't even clear where the State would get the money to carry out proposed

reorganizations or what requested data will be used for , there is absolutely no reason that a heavy-handed law needs to be adopted to have cooperation between private technology companies like Verizon and the State. As Verizon and some of our competitors have already demonstrated through our participation in the Department of Commerce and Consumer Affairs (DCCA) Broadband Task Force, we are willing to talk to State authorities and work with the State. A new law is not needed to compel dialogue or to force information.

While Hawaii state officials say that their goal is to work with the private sector and help Hawaii lead in broadband deployment, legislation like this bill will serve to set the State back. Right now, because of bills like H.B. 2526 HD 1, there is no State in the United State that wireless businesses are more concerned about than Hawaii, where companies are asking why the heavy-handed approach. This bill is a good bill to pass if the goal is to slow down private sector investment in broadband and to create an environment of uncertainty and apprehension for private businesses.

The best thing that the Legislature can do to help with broadband investment in the State, especially wireless broadband investment, is to reduce the regulatory burdens and bureaucratic impediments to investing in broadband. H.B. 2526 HD 1 does the exact opposite. Businesses looking at the creation of this new overreaching bureaucracy are likely to be concerned with whether Hawaii is a good place to expand broadband. This legislation discourages investment. It says to innovative technology companies: "we want to control everything you do."

We urge you to vote "NO" on H.B. 2526 HD 1.



Dan Youmans
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February 27, 2012

The Honorable Rep. Marcus Oshiro
Chair, Committee on Finance
Hawaii House of Representatives

*Re: Testimony OPPOSING House Bill 2526 HD1
Hearing before the House Committee on Finance
2-27-2012, 4 p.m., Room 308*

Representative Oshiro and Members of the Committee:

Thank you for this opportunity to express AT&T's position on House Bill 2526 HD1. AT&T supports the availability of broadband services to all Americans. To that end, we are active on Hawaii's Broadband Task Force. However, we are concerned that HB 2526 HD1 will impose additional burden and cost on telecommunications carriers that are already providing meaningful broadband data to the Hawaii Department of Commerce and Consumer Affairs ("Department").

House Bill 2526 HD1 would require telecommunications carriers to provide to the Department information about the availability of broadband services and pricing by address or tax map key. Additionally, the Department may request from a provider any additional information that the Department deems is necessary to perform its responsibilities. It is not clear how often this information would be required. That too is left to the Department's discretion.

Providing the information required by this legislation would impose additional burden and cost on telecommunications carriers, with little or no benefit to Hawaii. Carriers would have to develop and implement a method for capturing information not currently captured. Yet, it is not clear how this information would be used by the Department and to what end. The legislation does not answer these questions. This bill also raises questions about consumer privacy with broadband access information that would be available at the address level.

Of equal importance, the Department already has access to important information related to the provisioning of broadband in Hawaii by telecommunications carriers. In 2010, the Department was awarded a grant from the federal government to assist the State in gathering and verifying data on the availability, speed, location, and technology type of broadband services. The Department teamed with the University of Hawaii's Pacific Disaster Center for this effort, called the Hawaii Broadband Map Initiative. AT&T has worked cooperatively with the University by providing information relevant to AT&T's broadband deployment and operations in Hawaii.

In sum, the Department already has access to meaningful information about broadband provisioning in Hawaii by telecommunications carriers. HB2526 HD1's requirement for duplicative and additional information would be burdensome to produce and divert carrier resources from expanding broadband availability. For these reasons, we oppose HB 2526 HD1.

Respectfully Submitted,

Dan Youmans, AT&T

Lyndall W. Nipps
Vice President, Regulatory-Western Region



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February 27, 2012

Honorable Marcus Oshiro, Chair
House Committee on Finance

RE: **HB 2526, HD1- Reporting Requirements for Telecommunications and Cable
Television Providers - CONCERNS**
Hawaii State Capitol Room 308 – 4:00 pm – Agenda # 6

Aloha Chair Oshiro and Members of the Committee:

I am Lyndall Nipps, Vice President of Regulatory Affairs for **tw telecom of hawaii lp** ("TWTC"), which has operated in Hawaii since 1994, providing voice, Internet and data networking, and managing nearly 25,000 access lines to state and local governments, military, and businesses in the State. Thank you for the opportunity to present testimony on HB 2526, HD1.

As a company that offers high-speed broadband service within the state, we are affected by provisions in this bill that would mandate TWTC to provide reports for each county which includes broadband access availability, pricing, and other detailed proprietary information.

We have concerns regarding this request since no other state mandates companies to provide the same information at such a granular level. Complying with this request would add significantly to our costs and to consumer costs.

Furthermore, there are proprietary data and confidentiality concerns we have with this level of detail as it could lead our competitors to predatory pricing of services out of the market.

Finally, there is no clear reason why this data is needed since all providers recently participated in the state's Broadband Mapping Project.

We would like to work with the committee and other stakeholders to resolve these issues and, to perhaps, provide reasonable information on a voluntary basis.

For this reasons, we respectfully urge members to defer this bill in committee.

Sincerely,
/s/

Lyndall Nipps
Vice President, Regulatory Affairs-Western Region
tw telecom of hawaii lp

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Sunday, February 26, 2012 7:31 AM
To: FINTestimony
Cc: terrilanichong@gmail.com
Subject: Testimony for HB2526 on 2/27/2012 4:00:00 PM

Testimony for FIN 2/27/2012 4:00:00 PM HB2526

Conference room: 308
Testifier position: Support
Testifier will be present: No
Submitted by: Terrilani Chong
Organization: Individual
E-mail: terrilanichong@gmail.com
Submitted on: 2/26/2012

Comments:

I support this bill because in Hawaii we must make ultra-high speed broadband part of our basic infrastructure. Competing providers of such services must be required to disclose capabilities such as those named in the bill. Providing the providers with confidentiality as to their reports is appropriate.