



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

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February 9, 2022

Senator Karl Rhoads
Chair, Senate Judiciary Committee
Hawaii State Capitol, Room 204
415 South Beretania Street
Honolulu, HI 96813

Senator Jarrett Keohokalole
Vice Chair, Senate Judiciary Committee
Hawaii State Capitol, Room 205
415 South Beretania Street
Honolulu, HI 96813

Re: SB 2744 (Rhoads) – Data Property Rights - OPPOSE

Dear Chairman Rhoads and Vice Chairman Keohokalole,

TechNet is the national, bipartisan network of innovation economy CEOs and senior executives. Our diverse membership includes dynamic American businesses ranging from revolutionary start-ups to some of the most recognizable companies in the world. TechNet represents over four million employees and countless customers in the fields of information technology, e-commerce, sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.

TechNet respectfully submits this letter in opposition to SB 2744, a bill that would establish the right of each person to own and have an exclusive property right in the data they generate on the Internet.

SB 2744 raises several practical concerns as well as legal and constitutional issues. Depending on what is intended by granting an ownership right in one's personal data this bill could require users to license their data for usage by companies. This might mean a separate agreement with each user just to execute some basic functions on websites and applications. It also may mean that sites would have to change practices at the instruction of certain users - or such users might not be able to use those sites or applications if those changes can't be made for every user. Any such requirement would be functionally impossible for technology companies, and could force industry to cease providing products to Hawaiian consumers.

The responsible collection and use of personal data is a fundamental component of online commerce, and creating a new exclusive property right would create new obstacles in the delivery of goods and services. For example, companies use

personal data for critical functions such as fraud prevention, security, and compliance. However, the aforementioned requirements would add unnecessary friction to efforts to detect fraud and maintain business records, restricting the ability of companies to protect consumers and meet potential legal obligations.

Additionally, given the complex and interconnected data ecosystems that support consumers, we are concerned that a data property right could be implemented in a way that would conflict with existing federal and state privacy laws that currently authorize the collection and use of personal data. These federal privacy laws include the Fair Credit Reporting Act (FCRA), the Gramm Leach Bliley Act (GLBA), the Driver's Privacy Protection Act (DPPA), the Health Information Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health Act (HITECH).

FCRA and DPPA, as with GLBA, HIPAA, and HITECH, provide long-standing and robust protections for consumers. These statutes are enforced by various agencies including the Federal Trade Commission (FTC), the Consumer Financial Protection Bureau (CFPB) in the case of FCRA and GLBA, the Department of Health and Human Services (HHS) in the case of HIPAA and HITECH, and the Department of Justice (DOJ) and state departments of motor vehicles in the case of DPPA.

Without the details regarding the data elements that would be included as well as clarification on the application and enforcement of the data property right itself, we must respectfully oppose due to the broad changes this bill requires.

We strongly urge you not to move forward with SB 2744 and to work with stakeholders on the breadth of issues this bill is attempting to regulate. TechNet member companies place a high priority on consumer privacy and support the right of consumers to have control over their data. However, moving forward with a broad policy shift like this could have a negative impact on business, consumers, and innovation in Hawaii.

For these important reasons, TechNet opposes SB 2744. If you have any questions regarding our opposition to SB 2744, please contact Dylan Hoffman, Executive Director, at dhoffman@technet.org or at 505.402.5738.

Sincerely,



Dylan Hoffman
Executive Director, California and the Southwest
TechNet

LATE



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Testimony to the Senate Committee on Judiciary
February 10, 2022, 9:30 am
Hawaii State Capitol, Via Videoconference

Comments on SB 2744, Constitutional Amendment Establishing the Right of Each Person to Own One's Own Data

To: The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 48 Hawaii credit unions, representing over 860,000 credit union members across the state. We offer the following comments regarding SB 2744.

Our main concern is regarding the broadness of the concept of "data". We understand that the topic of data security and privacy are of concern to the Legislature, however, we would caution that a lack of specificity could open up unintended consequences. A definition of "data" could bring clarity to the intent of the proposed amendment.

Thank you for the opportunity to provide comments.

SB-2744

Submitted on: 2/4/2022 7:12:45 PM

Testimony for JDC on 2/10/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
lynne matusow	Individual	Support	No

Comments:

I am in full support. Please move this forward.