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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Higher Education & Technology
Friday, March 17, 2023
3:35 p.m.
Conference Room 309 & Via Videoconference**

On the following measure:

**S.B. 478 S.D.2, RELATING TO TELECOMMUNICATIONS AND CABLE INDUSTRY
INFORMATION REPORTING.**

Chair Perruso and Members of the Committee:

My name is Jamie Sheu, and I am the Acting Cable Television Administrator for the Department of Commerce and Consumer Affairs' (Department) Cable Television Division. The Department supports this bill.

The purpose of this bill is to repeal Hawaii Revised Statutes (HRS) Chapter 440J, relating to telecommunications and cable industry information reporting requirements for broadband service providers.

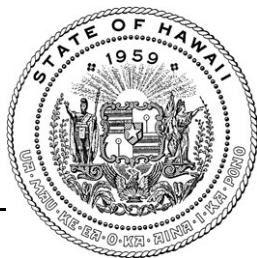
Accurately pinpointing unserved and underserved areas where broadband infrastructure is needed continues to be critical to access federal funding to provide service to all residents no matter where they work or live across our State. As mandated by Congress, the Federal Communications Commission (FCC) created the recently launched FCC National Broadband Map that displays where Internet services are available on a location-by-location basis across the United States, as reported by Internet

Service Providers (ISPs) to the FCC through its Broadband Data Collection (BDC). Specifically, the BDC requires ISPs to report where they offer broadband Internet service to homes and small businesses on a location-specific basis, which is in high contrast to the census block level data reported by ISPs on the FCC's previously required Form 477 (sunset date December 31, 2022) and under HRS Chapter 440J. Even more importantly, the National Broadband Map and data are publicly available, allowing everyone access to this location-specific information on where broadband service is and is not available.

The FCC opened its window to collect the first set of ISP data in June of 2022, and requires ISPs going forward to update this data twice a year, with the first update due March 1, 2023. The FCC will continue to update, verify, and refine the map to improve its accuracy, and has set up a process to allow government entities, third parties, and consumers to challenge both the ISPs' submitted data as well as the underlying mapping fabric that identifies the individual locations using various sources (e.g., government address records, census data, and geo-spatial data).

Given the FCC's ability to collect and publicly disclose location-specific fixed broadband data, and accordingly its discontinuance of collection of census block-level data through its Form 477 (including for mobile providers who must also submit data through the BDC for the National Broadband Map), the Department believes that the efforts of the State as well as the ISPs would best be directed towards ensuring that the National Broadband Map accurately reflects the unserved and underserved areas across our State. Accordingly, the Department believes that the collection of broadband coverage data under HRS Chapter 440J, like the FCC's Form 477, has effectively been replaced by the more comprehensive and granular data collection under the BDC for all providers required to file broadband coverage reports under that chapter.

Thank you for the opportunity to testify on this bill.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**
KA 'OIHANA HO'OMOHALA PĀ'OIHANA, 'IMI WAIWAI
A HO'OMĀKA'IKĀ'I

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Written Statement of
CHRIS J. SADAYASU
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON HIGHER EDUCATION & TECHNOLOGY

Friday, March 17, 2023
3:35 PM
State Capitol, Conference Room 309 & Videoconference

In consideration of
SB 478, SD2
RELATING TO TELECOMMUNICATIONS AND CABLE INDUSTRY REPORTING.

Chair Perruso, Vice Chair Kapela and members of the Committee. The Department of Business, Economic Development and Tourism (DBEDT) **support SB 478, SD2** that repeals chapter 440J, HRS, relating to telecommunications and cable industry information reporting requirements for broadband service providers.

On January 19, 2021, the Federal Communications Commission (FCC) issued its Third Report and Order establishing Digital Opportunity Data Collection and took key steps to ensure that both the data collection itself, and the measures for verifying the accuracy of the data collected, will yield a robust and reliable data resource for the Commission, Congress, federal and state policymakers, and consumers to evaluate the status of broadband deployment throughout the United States.

After discussions with broadband Internet access services providers, the acknowledgement that the new data provided to the FCC is accessible from the FCC and is much more granular than the current FCC Form 477 report, DBEDT recognizes that HRS 440J is no longer necessary.

For Part II, Section 5, DBEDT defers to DCCA on the specific provisions of the bill.

Thank you for the opportunity to submit this testimony.



Charter Communications
Testimony of Rebecca Lieberman, Director of Government Affairs

HOUSE COMMITTEE ON HIGHER EDUCATION & TECHNOLOGY

Hawaii State Capitol
Friday, March 17, 2023

**COMMENTS ON S.B. 478, S.D. 2 – REALTING TO TELECOMMUNICATIONS AND CABLE INDUSTRY
INFORMATION REPORTING**

Chair Perruso, Vice Chair Kapela, and Members of the Committee.

Thank you for the opportunity to provide testimony on S.B. 478, S.D. 2. Charter Communications **supports the intent** of this bill, which would repeal chapter 440J of the Hawaii Revised Statutes and proposes an amendment to address concerns.

Chapter 440J requires broadband service providers to annually file an aggregated report of broadband availability at the census-block level. This report is very similar to the FCC's Form 477 report, which requires broadband service providers to annually file census-block level broadband deployment data. In 2022, the FCC created a new broadband data collection mapping system, called the Broadband Data Collection System, and discontinued all Form 477 filings.

Instead of filing Form 477 reports, the FCC now requires broadband service providers to share broadband serviceable locations based on addresses and geographic coordinates, rather than census blocks. This broadband location data is then uploaded to the National Broadband Map, which is publicly available online and will be updated twice each year. Reporting on specific addresses instead

of census blocks provides the FCC, the state, and the public with much more precise information on broadband availability.

Charter supports the intent of this bill, which will help align state and federal policies and reduce outdated reporting requirements. However, we have concerns about Part II, Section 4, which would require DCCA to publish previously submitted Broadband Mapping Reports. All previous 440J reports were submitted under confidential treatment because this information is competitively sensitive, and Charter and other entities submitted this information with the understanding that it would remain confidential. As the legislature knows well, there is value in maintaining internal working documents confidential in order to have a clear understanding of data without jeopardizing ongoing endeavors. Publishing previously protected confidential information is counter to the original intent of maintaining confidentiality and creates an undesirable precedent moving forward. Charter respectfully requests the Committee amend this bill by removing Part II, Section 4.

Charter believes that every Hawaii resident should have reliable access to high-speed internet service. We will continue to help bring the benefits of broadband and access to the internet to those who need it most. Hawaii is estimated to receive significant federal dollars for broadband infrastructure in the immediate future (via the Coronavirus Capital Project Fund and Broadband, Equity, Access, and Deployment Program), in addition to private investments already being made by the industry.

Mahalo for the opportunity to testify on S.B. 478, S.D. 2.



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The State Legislature
The House Committee on Higher Education and Technology
Friday, March 17, 2023
Conference Room 309
3:35 p.m.

TO: The Honorable Amy Perruso Chair

FROM: Keali'i S. López, State Director

RE: **Opposition for S.B. 478, SD2** Relating to Telecommunications and Cable Industry Information Reporting.

Aloha Chair Perruso, and Members of the Committee:

My name is Keali'i Lopez and I am the State Director for AARP Hawai'i. AARP is a nonpartisan, social impact organization that advocates for individuals age 50 and older. We have a membership of nearly 38 million nationwide and nearly 140,000 in Hawaii. We advocate at the state and federal level for the issues that matter most to older adults and their families including broadband/telehealth.

AARP opposes S.B.478 SD2 which repeals chapter 440J, Hawaii Revised Statutes (HRS), relating to telecommunications and cable industry information reporting requirements for broadband service providers.

While AARP appreciates the enhanced accuracy of the FCC's current broadband mapping efforts, we recommend that the broadband service providers continue to submit the required information to the Department of Commerce and Consumer Affairs (DCCA). As the state department with this jurisdiction, DCCA can make important broadband data available to other state and county agencies, especially to the state agency that oversees the administration and disbursement of Broadband Equity, Access and Deployment (BEAD) program and digital equity funds. More than ever, states need timely accurate data to inform their BEAD and digital equity planning and grant awarding. AARP feels it is premature for the State to give up its jurisdictional oversight in receiving data from the broadband providers. State-based oversight should not be abdicated to a federal agency that is not familiar with the local and state challenges in meeting local communities' broadband needs. Having local oversight, collection and analysis of data is particularly important because the state brings first-hand knowledge to the process. Bringing together the best of the FCC's data will be further enhanced with the state's first-hand experiences. Thank you very much allowing us to testify in **opposition** of SB 478. SD 2.



March 16, 2023

Representative Amy Perruso, Chair
House Committee on Higher Education and Technology
Hawaii State Capitol, Room 444
Honolulu, HI 96813

Representative Jeanne Kapela, Vice Chair
House Committee on Higher Education and Technology
Hawaii State Capitol, Room 418
Honolulu, HI 96813

RE: Support for SB478 – Reporting requirements for broadband service providers

Chair Perruso and Vice Chair Kapela,

On behalf of CTIA®, the trade association for the wireless communications industry, I write to support Senate Bill 478, S.D. 2 relating to telecommunications and cable industry information reporting requirements for broadband service providers, and to provide comments. CTIA shares Hawaii's commitment to advancing broadband deployment and adoption across the state, and wireless carriers have been on the forefront of efforts to meet those goals.

The wireless industry strongly supports ubiquitous mobile broadband coverage and has been on the cutting-edge of promoting its deployment to meet ever-growing consumer demand. In 2021 alone, wireless carriers invested nearly \$35 billion to grow and improve the nation's networks.¹ This investment also fuels economic growth, including in Hawaii, where the wireless industry supports nearly 23,000 jobs and generates \$2.1 billion to the state's annual GDP.

State telecommunications policies that align with the existing federal regulatory regime for wireless creates efficiency and removes barriers to deployment. SB 478 SD 2 will repeal HRS 440J, which currently requires broadband data to be reported to the state annually. Removing this requirement will further streamline already existing data collection processes and allow carriers to focus their resources on the ultimate goal of expanding wireless broadband service.

Both Congress and the Federal Communications Commission (FCC) are taking steps to improve the collection and dissemination of data on broadband availability. In March of 2020, with strong bipartisan support, Congress passed the Broadband DATA Act, which built on prior steps to improve data collection and mapping at the FCC. This federal law takes a number of actions to improve broadband data collection, including:

- Setting strong parameters for service availability data collected from mobile broadband providers to ensure accuracy;
- Strengthening enforcement against providers that submit inaccurate broadband data;

¹ <https://www.ctia.org/news/u-s-wireless-investment-hits-record-high>



- Requiring the FCC to collect granular service availability data from wired, fixed wireless, and satellite broadband providers, and allowed the FCC to consider whether to collect verified coverage data from state, local, and tribal governments, as well as from other entities;
- Creating a process for state, local, and tribal governments, consumers, and other groups to challenge FCC maps with their own data; and
- Establishing a crowdsourcing process that will allow the public to participate in data collection.

The FCC's new broadband maps and the underlying data submitted by internet service providers (ISPs) are public and now available for download by anyone. As such, HRS 440J is no longer necessary.

We also have input on Part II of SB 478 SD 2. HRS 440J-3 required the Department of Commerce and Consumer Affairs (DCCA) to keep information submitted under HRS 440J confidential. Part II of SB 478 SD 2 instructs DCCA to make past submissions available to the public. Given current efforts on broadband data collection and mapping, Part II is unnecessary.

We appreciate the recognition through this legislation that the availability of FCC broadband data can effectively serve the needs of the State. For that reason, we strongly support the intent of SB 478.

Sincerely,

Jeremy Crandall
Assistant Vice President
State Legislative Affairs

Written Statement of
Jeannine Souki
Senior Manager – Government & Regulatory Affairs

HOUSE COMMITTEE ON HIGHER EDUCATION & TECHNOLOGY
March 17, 2023 – 3:35 PM
Conference Room 309, Hawai'i State Capitol

SUPPORT WITH REQUESTED AMENDMENT FOR:

**S.B. 478, SD2 – RELATING TO TELECOMMUNICATIONS AND CABLE INDUSTRY
INFORMATION REPORTING**

To: Representative Amy Perruso, Chair
Representative Jeanne Kapela, Vice Chair
Members of the Committee on Higher Education & Technology

Re: Testimony providing support with requested amendment for SB 478, SD2

Aloha Honorable Chairs, Vice-Chairs, and Committee Members:

Thank you for this opportunity to provide testimony supporting SB 478, SD2, to repeal chapter 440J, Hawai'i Revised Statutes (HRS), relating to telecommunications and cable industry information reporting requirements for broadband service providers.

Hawaiian Telcom supports the original intent of this housekeeping measure to repeal 440J, HRS, and we prefer the language contained in the House's companion measure, HB 371 HD2. We are attaching a proposed HD1 for your consideration.

The current statute requires broadband service providers to report to the State Department of Commerce and Consumer Affairs (DCCA) on the percentage of each *census block* without access to broadband service based on the FCC's broadband service definition. Census blocks are statistical areas bounded by visible features, such as streets, roads, and streams, and by nonvisible boundaries, such as property lines. Census blocks are smaller in urban areas like Honolulu and larger and irregularly shaped in suburban and rural areas. In remote areas, a census block may encompass hundreds of square miles. They are NOT site specific.

This reporting requirement was useful when the legislation was passed in 2012. However, reporting requirements have since changed and require much more granular information which is a much needed improvement. Rather than requiring mere census block data, the FCC now requires broadband service providers to file location-specific service information. This means providers need to report information

by specific addresses. The providers have begun to do this in September of last 2022 and will continue to update these reports every six (6) months.

This bill is in keeping with changes made at the federal level. As a broadband provider, we support the reporting of more useful information so that we can all focus on what our local community needs are around broadband deployment. The information currently reported to the FCC is available to the public, including any local agencies of interest.

The information previously reported was never intended to be public. Given that prior agreement with public agencies, Hawaiian Telcom does not support the additional language in Section 4 of this bill which directs DCCA to make confidential data filed under 440J HRS publicly available. The confidentiality provision in 440J HRS was originally inserted to protect companies from having proprietary business information disclosed while allowing DCCA access to sensitive and private business data for planning purposes. Allowing the state to now release proprietary information which was submitted under confidentiality provisions is a violation of trust and bad public policy. Also, it could serve as a precedent to open the door for other statutory agreements around proprietary information. We strongly believe that this agreement regarding confidentiality be upheld and urge the Committees to remove this provision.

Hawaiian Telcom continues to invest hundreds of millions of dollars annually to expand broadband infrastructure across the state. In addition to significant investments into building out broadband infrastructure, Hawaiian Telcom supports digital equity as participating service provider in the federal Affordable Connectivity Program (ACP), which provides a discount of up to \$30 per month toward internet service for eligible households and up to \$75 per month for households on qualifying Hawaiian Homelands, and Lifeline Program which provides discounted services for qualified residents.

For these reasons, Hawaiian Telcom supports the original intent of this measure and respectfully requests your Committees to amend SB478, SD2 with language in our attached proposed HD1.

Attached: SB371 HD1

A BILL FOR AN ACT

RELATING TO TELECOMMUNICATIONS AND CABLE INDUSTRY INFORMATION
REPORTING.

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

SECTION 1. Section 206R-1, Hawaii Revised Statutes, is amended by amending the definitions of "broadband infrastructure" and "broadband service" to read as follows:

"Broadband infrastructure" [~~shall have the same meaning as in section 440J-1.~~] means the medium used to provide broadband service, including fiber optic cable, copper cable, coaxial cable, and wireless media, such as satellite communications, wireless networks, and worldwide interoperability for microwave access.

"Broadband service" [~~shall have the same meaning as "broadband access or broadband service" in section 440J-1.~~] means an always-on service that includes but is not limited to computer processing capabilities, information provision, and computing interactivity with data transport, which enables end users to access the Internet and use a variety of applications at minimum speeds established by the Federal Communications Commission. "Broadband service" does not include wireless network infrastructure or facilities used to provide wireless services over licensed spectrum."

SECTION 2. Section 356D-11.5, Hawaii Revised Statutes, is amended by amending subsection (b) as follows:

1. By amending the definition of "broadband infrastructure" to read:

"Broadband infrastructure" has the same meaning as in section ~~[440J-1.]~~ 206R-1."

2. By amending the definition of "broadband service" to read:

"Broadband service" has the same meaning as [~~"broadband access or broadband service"~~] in section ~~[440J-1.]~~ 206R-1. [~~"Broadband service" does not include wireless network infrastructure or facilities used to provide wireless services over a licensed spectrum.~~]"

SECTION 3. Section 481-9.5, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

"(j) This section shall not apply to any:

- (1) Financial institution subject to chapter 412 to the extent that the financial institution is engaged in activities regulated pursuant to chapter 412;
- (2) Insurer subject to chapter 431, 432, or 432D to the extent that the insurer is engaged in activities regulated pursuant to those chapters;
- (3) Telecommunications provider subject to chapter 269; and
- (4) Cable operator subject to chapter 440G [~~or 440J~~] to the extent that the provider is engaged in activities regulated pursuant to [~~those chapters~~] chapter 440G or the Federal Communications Commission."

SECTION 4. Chapter 440J, Hawaii Revised Statutes, is repealed.

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

SECTION 6. This Act shall take effect on June 30, 3000.

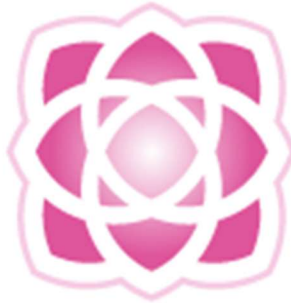
Report Title:

Telecommunications and Cable Industry Information Reporting Requirements; Repeal; Broadband; Broadband Service Providers

Description:

Repeals chapter 440J, HRS, relating to telecommunications and cable industry information reporting requirements for broadband service providers. Effective 6/30/3000. (HD1)

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



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

HEARING BEFORE THE HOUSE COMMITTEE ON
HIGHER EDUCATION & TECHNOLOGY
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 309
FRIDAY, MARCH 17, 2023 AT 3:35 P.M.

To The Honorable Amy A. Perruso, Chair
The Honorable Jeanne Kapela, Vice Chair
Members of the committee on Higher Education & Technology

SUPPORT SB478 SD2 RELATING TO TELECOMMUNICATIONS AND CABLE INDUSTRY INFORMATION REPORTING

The Maui Chamber of Commerce **SUPPORTS SB478 SD2** which repeals chapter 440J, HRS, relating to telecommunications and cable industry information reporting requirements for broadband service providers.

The Chamber is in support of this legislation for the following reasons:

1. The FCC released a Final Order in December 2022 informing broadband service providers that they would no longer be required to report service availability data by Census block (FCC Form 477), so we are asking for the state to follow suit and sunset DCCA's 440J reporting requirement by Census block.
2. DCCA does not use the 440J data.
3. States have moved away from using Census block-level data because it is no longer applicable now that broadband service providers are reporting service data by address/location into the FCC's national broadband map.
4. The FCC national broadband map is publicly available online and will be updated twice a year.

If there is no use for 440J reports, why not eliminate outdated regulations and unnecessary costs and constraints to our workforce so that we may focus on the present and future delivery of broadband infrastructure and services?

For these reasons, we **SUPPORT SB478 SD2**.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.