NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

FREDERICK D. PABLO
INTERIM DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
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HOUSE COMMITTEE ON FINANCE
TESTIMONY OF THE DEPARTMENT OF TAXATION
REGARDING SB 756 SD2, PROPOSED HD1
RELATING TO TAXATION

TESTIFIER:	**FREDERICK D. PABLO, INTERIM DIRECTOR OF TAXATION (OR DESIGNEE)**
COMMITTEE:	**FIN**
DATE:	**APRIL 4, 2011**
TIME:	**2:00 PM**
POSITION:	**COMMENTS**

This measure: (1) establishes an excise tax on direct broadcast satellite service providers; (2) delays the beginning of the payout for the renewable energy technologies tax credits by two years; (3) requires Department of Business, Economic Development and Tourism to complete an assessment on the effectiveness and ongoing need for the tax credit;.and (4) repeals the income tax exemption for income derived from stock or stock options of a qualified high technology business.

PART II

This measure establishes an excise tax on direct broadcast satellite service providers. The Department of Taxation (Department) has no comments on this measure.

PART III

The Department would like to suggest the following language to accomplish the intent of the bill of delaying the ability to claim the refundable portion of the renewable energy technologies tax credits by two years and limiting the credit to Hawaii residents.

SECTION 5. Section 235-12.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) When the requirements of subsection (d) are met, each individual ~~who is a resident of the State or~~ and corporate resident taxpayer that files an individual or corporate net income tax return for a taxable year may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. The tax credit may be claimed for every eligible renewable energy technology

system that is installed and placed in service in the State by a taxpayer during the taxable year. The tax credit may be claimed as follows:

(1) For each solar energy system: thirty-five per cent of the actual cost or the cap amount determined in subsection (b), whichever is less; or

(2) For each wind-powered energy system: twenty per cent of the actual cost or the cap amount determined in subsection (b), whichever is less;

provided that the eligible system is installed and placed in service prior to January 1, 2015; ~~provided further that refundable credits claimed during the 2012 taxable year will be paid beginning July 1, 2013;~~ provided further that for taxable years beginning after December 31, 2010, the refundable credits must be claimed in the taxable year that is two years following the taxable year in which the eligible system is installed and placed in service;…"

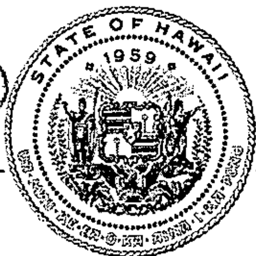
The Department estimated that the revenue gain from this provision is $13.0 million per year for FY 2012 and FY 2013.

PART IV

This measure repeals the income tax exemption for income derived from stock options or stocks from a qualified high technology business.

The estimated revenue gain from this provision is $2.5 million per year for FY 2012 and thereafter.

TOTAL REVENUE IMPACT—This measure will result in a revenue gain of approximately $15.5 million for FY 2012, $15.5 million for FY 2013, and $2.5 million per year for FY 2014 and thereafter.



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON FINANCE
Monday, April 4, 2011
2:00 PM
State Capitol, Conference Room 308
in consideration of
SB 756 SD2, Proposed HD1

Chair Oshiro, Vice Chair Lee, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) defers to the Department of Taxation on matters relating to implementation of SB 756 SD2, Proposed HD1, and to the Department of Budget and Finance on matters relating to potential impact on the priorities indicated in the Executive Biennium Budget.

Part III of the proposed HD1 of SB 756 SD2 would delay the payment of the renewable energy technologies income tax credit; require DBEDT to complete a detailed study by October 1, 2013; and sunset the tax credit on January 1, 2015. Our concerns are the following:

1) Delaying the payment of the tax credit would have negative effects on the private capital markets, as investors look towards consistency and continuity in local tax policy prior to investing any capital into a project. Any legislation that threatens to delay or change a previously committed tax benefit will effectively scare outside investment interests away

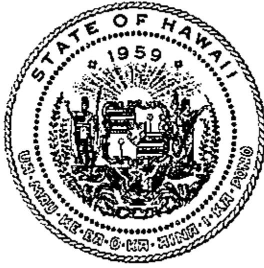
from participating in the economic growth of Hawaii's energy industry and the local economy in general.

2) The January 1, 2015 sunset date of the tax credit will reduce the activity and investment in this sector at a time when additional jobs, tax revenues, and energy projects are needed to offset the negative effects of increased oil prices on Hawaii's families and businesses. We respectfully oppose this provision.

DBEDT notes that the state tax credits help encourage the inflow of capital investments in the economy. DBEDT also notes that an analysis from a reputable private capital investment firm for renewable energy projects, using their standard project costing model, estimate that for every dollar of state tax credits for renewable energy projects generates approximately $2 of additional tax revenues to Hawaii. This additional tax revenues include revenues from direct General Excise Tax (GET); GET on expenditure of capital to build the project; GET on energy produced over the life of the project; direct income tax; income taxes on wages of labor for project construction, maintenance, and operation through the life of the project; income taxes on the refund itself;; and indirect GET and income tax revenues using a standard economic effect multiplier on the expenditures of capital. Furthermore, while not reflected in the additional $2 of tax revenues, the renewable energy projects help displace the electricity generated from imported fuels, thereby reducing the dollars leaving our economy. These dollars that we are able to keep in our economy also have multiple impact on income and employment.

In summary, we are very concerned about the impact of delaying the payment of the tax credit and we oppose the termination of the tax credit by 2015.

Thank you for the opportunity to offer these comments.



NEIL ABERCROMBIE
Governor

MIKE MCCARTNEY
President and
Chief Executive Officer

Hawai'i Tourism Authority

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Testimony of
Mike McCartney
President and Chief Executive Officer
Hawai'i Tourism Authority
on
S.B. 756, S.D. 2, Proposed H.D.1
Relating to Taxation

House Committee on Finance
Monday, April 4, 2011
2:00 p.m.
Conference Room 308

The Hawai'i Tourism Authority (HTA) the following cautionary comment on paragraph (5) in SECTION 2 of the proposed, H.D. 1, which proposes to amend chapter 237, Hawai'i Revised Statutes, by proposing to temporarily suspend the exemption from the general excise tax amounts received by organizations from convention, conference, or tradeshow registration fees, fees for convention, conference, or tradeshow exhibit or display spaces, and fees for advertising and promotion at the convention, conference, or trade show in brochures.

Organizations, such as the American Dental Association and the American Academy of Neurology, which have booked conventions at the Hawaii Convention Center, derive much of their operating revenue from the fees received from registration, sponsors, and exhibitors. Any reduction in the revenue from these fees will cause financial stress for those organizations. Both organizations indicated that imposing a tax on the sale of display spaces would have affected their decision to hold their event in Hawaii.

The American Academy of Neurology (AAN) was an event attended by 7,500 members. They were told by the Tax Department that they had to pay $60,000 in GET on booth sales. The AAN generated $25.3 million in visitor spending and $2.1 million in tax revenues. In 2003, if they had known that they had to pay the GET on booth sales, they would not have booked their event in Hawaii.

<u>If the American Dental Association was Charged the GET</u>

Booths	1,000
Cost/Booth	$2,500.00
Total Revenues	$2,500,000.00
GET (if required to pay)	***$104,250.00***
Delegates	24,000
Room Nights	221,040
Visitor Spending	$85,260,154.00
Tax Revenue Generated	***$10,992,321.00***

If the American Dental Association was charged the GET on booth sales, the State would have lost $85 million in visitor spending and $10.9 million in tax revenues.

In 2009 and 2010, there were 26 events at the Hawaii Convention Center that sold displays. In the worst case scenario, all of those events would have been lost to another facility and Hawaii would have lost:

Total number of events that sold displays	26
Total number of delegates for all events	118,355
Total room nights	1,023,204
Total visitor spending	***$420,456,894.00***
Tax Revenue Generated	***$54,208,174.00***

While the GET can be added on to the fees for sponsors and exhibitors, it will significantly impact the sale of display spaces, because Hawaii is already a more costly destination for exhibitors, with the higher costs of shipping displays and equipment to Hawaii.

A poll by SMG, which operate the Hawaii Convention Center, revealed only one minor location that imposed a similar tax, which immediately lost a major event when it was imposed. The poll of its industry partners indicates that imposing this additional cost would severely damage Hawaii's brand as a place to do convention business.

We understand that the financial difficulties that the State is facing require decision-makers to make difficult decisions, but we offer these comments to help you make an informed decision.

Thank you for the opportunity to comment on the proposed H.D.1to S.B. 754.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 **TAX FOUNDATION OF HAWAII** Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, MISCELLANEOUS, Modify renewable energy technology income tax credit; repeal exclusion for high technology stock options; tax on direct broadcast satellite providers

BILL NUMBER: SB 756, Proposed HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Adds a new chapter to the HRS to impose an excise tax on direct broadcast satellite service providers. The tax shall be assessed and collected annually on such providers on account of their business and other activities in the state measured by gross revenues derived from the sale of direct broadcast satellite services multiplied by 4%. The tax shall not apply to internet access services, including services purchased, used, or sold to provide direct broadcast satellite services. Delineates provisions for the remittance, reporting, and record keeping by the provider. The revenue from the excise tax shall be deposited into the general fund. This section shall take effect on July 1, 2011.

Amends HRS section 235-12.5 to provide that: (1) the refundable renewable energy technology system income tax credits claimed during the 2012 taxable year shall be paid beginning July 1, 2013; (2) a renewable energy technology system must be installed prior to January 1, 2015 to be eligible for the tax credit; and (3) the department of business, economic development and tourism (DBEDT) complete an assessment, by October 1, 2013, of the impact of the tax credit on the state's energy sector for the period 2003-2013 and of the continued need for the tax credit after December 31, 2014. Delineates criteria that should be included in the study.

Repeals HRS section 235-9.5 which provides an income tax exclusion for income derived from stock options from a qualified high technology business.

EFFECTIVE DATE: Tax years beginning after December 31, 2010 or as noted

STAFF COMMENTS: This measure proposes an excise tax of 4% on the providers of direct broadcast satellite service, such as Direct TV, Dish network, etc. While it appears that the initial tax rate would be 4% as proposed in this measure, any subsequent increase in the tax since it is based on a percentage of the amount of gross revenue derived from providing service in the state, depending on the percentage adopted, may be considered confiscatory if the rate is set too high and any attempt to extract too much from these providers will cause these providers to stop offering service to Hawaii.

While it is not known how these businesses are currently being taxed or how the tax is being applied, caution is advised given the fact that this is a closed circuit service receiving transmissions both from within the state and without. Whether or not the fees paid for these services should be apportioned begs a closer examination of this communications service. Rather than focusing just on direct satellite broadcast services, lawmakers should step back and assess how the state should tax all broadcast services of this nature. At that point then the playing field would be leveled for all players and not just satellite broadcasters. This would include cable transmitters, fiber optic transmissions and other

developing technology. Given that technology is ever evolving some providers are subject to existing tax law while others are not. An assessment of the service and the technologies should be undertaken first to insure that all competitors in this arena are taxed alike.

The proposed measure attempts to slow the revenue drain from the state renewable energy technology tax credits by deferring the payout of the credits claimed in 2012 until July 1, 2013. This acknowledges the fact that tax credits are a "slow leak" in the state's revenue pot. Although this measure would delay the payout of those tax credits, they still will result in a loss of state revenues, just to a later date.

The legislature by Act 178, SLH 1999, established high technology tax credits to encourage the development of high technology businesses in the state. These acts provided investment and research credits, as well as income exclusions such as this one for stock options, providing tax incentives to encourage high tech businesses and individuals associated with high tech businesses to locate in the state. Due to the financial crisis that the state government is experiencing, this measure proposes to alleviate the drain on state revenue due to this income tax exclusion.

What this measure does underscore is that the unbridled offering of tax incentives amounts to nothing more than the expenditure of public funds out the back door. Even as similar measures that restrict tax credits are being introduced and discussed, other lawmakers continue to introduce measures proposing tax credits and exemptions for all kinds of activities, none of which have anything to do with relieving an excessive tax burden. Instead of perpetuating the anticipation of special interests that they can get a "tax break with a tax credit," lawmakers need to go back to the old-fashioned way of supporting specific programs and projects by appropriating public funds. The appropriation process allows for the careful scrutiny and evaluation of proposals to determine the worthiness of the investment of public dollars.

Finally, one has to ask what lawmakers were thinking when they adopted these "tax breaks." Were they caught up in the emotional fervor that favored this darling of economic development and were otherwise blinded to the fact that the overall business climate in Hawaii is poor. Those sponsors of these incentives should be held accountable for the waste of taxpayer dollars at the expense of all other taxpayers who are now being asked to pick up the tab by having their pensions taxed, losing the ability to deduct their state income taxes, and are being asked to pay additional taxes on alcoholic beverages and sugary beverages. All of these latter proposals would not have been necessary had lawmakers been more judicious about handing out these high tech "goodies."

Digested 4/3/11

Satellite Broadcasting & Communications Association

Lisa Volpe McCabe
Director Public Policy & Outreach

Testimony of Lisa V. McCabe
Director, Public Policy and Outreach
Satellite Broadcasting & Communications Association

Before the Committee on Finance on S.B. 756
April 4, 2011

Chairman Oshiro, and members of the Committee on Finance, thank you for the opportunity to submit testimony. I am Lisa McCabe, Director of Public Policy and Outreach for the Satellite Broadcasting & Communications Association.

The SBCA is the national trade organization for the consumer satellite industry. The SBCA is composed of satellite service providers, equipment manufacturers, distributors, retailers and national and regional distribution companies that make up the satellite services industry. I'm address the Committee to speak on behalf of the 28,000 citizens of Hawaii who subscribe to one of the two national satellite TV service providers that offer service in the State.

I urge you to reject S.B. 756. In short, it's discriminatory, it's illegal, and it's just bad policy. Thousands of satellite TV subscribers would be burdened with additional tax, crushing small businesses and hurting the Hawaii economy at the worst possible time

Every subscriber of pay TV in the State already pays a 4.16% tax on their service. H.B. 756 seeks to increase that burden by creating a new tax that would only be imposed on satellite TV subscribers while giving cable subscribers a free ride.

There could not be a worse time to raise taxes on satellite television service. TV is our primary source of information on everything from local news and weather to national politics. We click it on first thing in the morning to learn if a storm is brewing, if our schools are closing, and if we have to take an alternative route to work. Throughout the day, it tells us if our Medicare payments will be cut, if our streets are safe, and how our troops are faring in far-away wars. At night, we turn to TV to entertain us, or relax us, to teach us and inspire us, to keep us awake or to lull us to sleep.

When times are tough and wallets are thin, TV is the entertainment of last resort for thousands of Hawaii families. We can cut out restaurants, we can rule out plays, movies, lectures, and sporting events as luxuries. And when we do, we stay at home and click on the TV. The proposal would punish Hawaii families simply because they have chosen satellite TV service instead of cable.

This tax would be especially burdensome to Hawaii families living in rural parts of the State who have few options for service. This tax would hit senior citizens on fixed incomes

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extremely hard. This tax would hurt hotel, bar and restaurant owners in Hawaii who need satellite TV just to stay in business.

We recognize that at times like this, difficult decisions about taxes and tax policy must be made. But the new tax proposed by S.B. 756 will only exacerbate the budgetary problems of many thousands of Hawaiian families and will help no one.

By imposing such a discriminatory tax on satellite TV service, the state legislature would be tipping the competitive landscape in favor of cable. For years, the public outcry about the high rates charged by the entrenched cable monopolies, their low quality of programming and service, and their poor customer service standards was alarming. Congress heard these complaints, and answered by adopting a national policy to encourage competition in the video market place. Congress knew that effective competition would improve consumer satisfaction, and it worked. As satellite emerged as viable competitor to cable, the quality of service, programming, and customer service standards have improved, and consumers now get more value out of every dollar they spend on subscription TV services. Maintaining competition is the best way to provide positive influence in the marketplace. Tax policy that sets a level playing field is the best way to foster competition in Hawaii's video services marketplace. As such, I urge you to not to turn back the clock with such an anti-competitive and discriminatory tax policy.

But, more importantly from a fiscal standpoint, the form of discrimination proposed by S.B. 756 is not only anti-competitive; it is also illegal because it violates the Constitution of the United States.

If S.B. 756 is enacted it will be challenged in court and it will be struck down. In short, this form of discrimination violates the constitution because it encroaches on Congress's exclusive jurisdiction to regulate interstate commerce. Any tax that discriminates against interstate commerce is unconstitutional and this tax would be no exception. It is blatantly discriminatory and it will be struck down. And when it does get struck down, the State will be forced to return all of the ill-gotten revenue generate by this discriminatory tax to the satellite subscribers. This is simply not a risk that makes sense in the current economic climate.

In sum, I ask you all for your support in rejecting S.B. 756 and its discriminatory tax on satellite TV service. It's the wrong tax at the wrong time. It increases taxes without increasing revenue. It's illegal and not worth the risk. Simply put, it's just bad policy.

Thank you for the opportunity to submit testimony regarding S.B. 756.

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Direct: 202.349.3640 | Fax: 202.349.3621 | lmccabe@sbca.org | www.sbca.org

April 4, 2011

Dear Hawaii Legislators:

On behalf of every satellite TV subscriber in Hawaii, we urge you to reject Senate Bill 756, S.D.2. The bill would impose a new discriminatory sales tax exclusively on satellite TV subscribers.

This proposed tax would force approximately 28,000 families in Hawaii to pay more for their television programming at a time when many are scaling back their lifestyles and spending more time at home in an effort to make ends meet. It would especially hurt those who live in rural parts of Hawaii that are not served by cable and who depend on DIRECTV or DISH Network for a reliable signal. For these households, S.B. 756 is a "rural tax" that punishes them just for living where they live.

This proposal is part of a nationwide effort by cable companies to gain an unfair advantage in the marketplace. In the last two years alone, the cable industry has tried unsuccessfully to convince over a dozen states to tax satellite subscribers.

The cable industry's lobbying effort is based on a misleading argument that satellite subscribers should be taxed because cable has to compensate municipalities through "franchise fees" paid for the right to lay cable in public rights-of-way. This argument is specious because these fees are a part of the cable industry's business model; satellite technology does not rely on public rights-of-way to deliver television programming. Cable companies have consistently acknowledged that franchise fees are a cost inherent to their business; they are the rent that cable companies pay for the right to access the public rights-of-way.

To assert that satellite subscribers should cover cable's business expenses is analogous to arguing that airline passengers should cover the cost of laying railroad tracks. Accordingly, S.B. 756 would result in satellite subscribers subsidizing cable's cost of doing business.

DIRECTV and DISH Network join the rest of our industry in urging you to take an immediate stand against any proposed discriminatory satellite-only tax. Please contact DIRECTV and DISH Network's representative in Honolulu, Amy Hirano at (808) 536-5688 should you have any questions.

Sincerely,

Larry Hunter
EVP and General Counsel
DIRECTV, Inc.

R. Stanton Dodge
EVP and General Counsel
DISH Network L.L.C.

Joseph Widoff
President
SBCA

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Representative Marcus Oshiro, Chair
House Committee on Finance

RE: SB 756 Proposed HD1 Relating to Taxation - Support Part II
April 4, 2011, 2:00 p.m., Room 308

Chair Oshiro, Vice Chair Lee and members of the committee,

On behalf of Oceanic Time Warner Cable (Oceanic), which provides a diverse selection of entertainment, information, and communication services to nearly 350,000 Hawaii households, schools and businesses and currently employs more than 900 highly-trained individuals, we appreciate the opportunity to express our strong support of Part II, SB 756 proposed HD1. Part II establishes an excise tax on direct broadcast satellite (DBS) service providers.

BACKGROUND:

Cable customers pay more taxes and fees than satellite (DirecTV and Dish, for example) customers. This plain and simple fact can be verified by comparing a cable television service bill with a satellite television service bill. DBS has benefited from the Section 602 loophole under federal law, however, States were clearly given the authority to impose excise taxes. Over time, states around the country have enacted parity measures like this one to equalize taxes and fees on cable and satellite services.

PROVIDING HAWAII RESIDENTS A TAX-NEUTRAL CHOICE:

Today, Hawaii customers who wish to purchase video services from Oceanic must pay multiple taxes and fees of up to a combined 5%, as well as state and local general excise taxes. While the state general excise tax is imposed on direct broadcast satellite ("DBS") service, the other taxes and fees, including local general excise taxes, are not imposed on DBS providers or their customers.

In a competitive marketplace where customers have a choice between subscribing to Oceanic or DBS, those decisions should be driven by the services and value delivered by the provider and not be influenced by taxes. Consumers should have a tax neutral choice and functionally equivalent services should be taxed in a similar manner, regardless of provider or method of delivery.

Some may ask: "aren't franchise fees paid primarily or solely for use of the rights of way?" The answer is an emphatic "no." In fact, in addition to their payment of franchise

fees, Oceanic must separately pay to maintain and repair the rights-of-way as part of their franchise agreements. Further, in consideration of their franchises, Oceanic is required to provide public access, and our fees help support broadband deployment and provide access to schools and libraries, which Satellite companies do not pay.

Whether franchise and other fees are treated as a "tax" or a "fee", the impact is the same – currently, Hawaii cable subscribers have to reach deeper into their pockets than Hawaii satellite subscribers. This legislation allows Hawaii residents a tax neutral choice by equalizing the taxes and fees imposed on functionally similar video services.

IVIDEO TAX NEUTRALITY IN OTHER STATES:

Ten states enacted some form of video tax parity: Ohio, Kentucky, Delaware, Florida, Massachusetts, North Carolina, Tennessee, Utah, Virginia, and Washington. These states recognized the unfair treatment of some video programming service providers and the impact the disparate treatment has on consumers.

CONCLUSION:

Oceanic respectfully requests that Hawaii close the satellite loophole and enact tax reform to ensure that functionally equivalent services are taxed similarly. Sound tax policy dictates as much. DBS providers are major corporations and not small start ups that need a break. Indeed, a fair and administrable tax system would promote the growth of the video programming marketplace and provide a tax-neutral choice for Hawaii consumers.

We appreciate your careful consideration of this matter and urge the Committee to support Part II of this bill.

Sincerely,

Bob Barlow
President of Oceanic Time Warner Cable

April 4, 2011

Hawaii State Representative Marcus R. Oshiro
Chair, Committee on Finance
Hawaii State Legislature
415 S. Beretania St.
Honolulu, Hawaii 96813

Hawaii State Representative Marilyn B. Lee
Vice Chair, Committee on Finance
Hawaii State Legislature
415 S. Beretania St.
Honolulu, Hawaii 96813

Dear Representatives Oshiro and Lee:

We strongly urge you to oppose SB 756, a bill that would impose an unfair satellite-only tax hike on TV subscribers.

As local retail businesses serving local Hawaiians, the proposed price hike on satellite TV would have a negative impact on us, our businesses, our employees and local families who are our customers. Our businesses are based on a vibrant and competitive video services market. Competition among video providers and platforms is good for business and the consumer.

Consumers choose a platform based on what that platform can provide a consumer, and at what price those services are provided. Giving one platform a pricing advantage over another inverts the free market-place to one that is solely a price driven market place. Services that would, otherwise be attractive to the consumer are not chosen. In other words, the consumer receives a lesser value when they are choosing exclusively on choice. In today's economy is more important than ever to give the consumer maximum return on their hard earned dollar. Fair competition promotes companies to not only bring price to the table but innovation in their product as well.

If the legislature feels that this is an opportunity to level the playing field between satellite and cable, we would respectfully suggest that this bill would do just the opposite and put satellite at a disadvantage.

Each platform has a way of going to market. Satellite spent billions of dollars in infrastructure, orbital space, and development of hardware as their investment. Satellite spends millions of dollars advertising in our local markets, providing jobs in that manner. Satellite reaches places that cable has been unwilling to invest their resources.

A satellite-only tax would especially hurt families and small businesses in rural areas that cable refuses to serve. Cable frequently ignores the rural customer because it's not cost effective to reach that customer. As you are supporting this bill, please keep in mind, that you are supporting the mindset that says it's okay to ignore the customers in the areas cable can't or won't go into.

We would respectfully ask, if the state is looking to level the playing field, how can a bill be brought to the floor and voted on, that is patently, one sided? That is not competition. That's special interest. HB 306's proposed tax harms competition in the video services market and unfairly singles out satellite TV customers for a tax hike.

We urge you to oppose HB 306, the discriminatory satellite-only TV tax. This tax would force families to pay more for their television programming when many of them are scaling back their lifestyles and spending more time at home in an effort to make ends meet. With the recent earthquake in Japan threatening Hawaii's tourism industry, now is the worst possible time to start piling new taxes on small businesses and families.

Consumers should be able to choose the TV service they prefer based on what they care about-better programs, better service, and better prices.
Please keep the video services market in Hawaii robust by rejecting this tax on satellite TV.

Sincerely,

Timothy W. Sullivan
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dishtv@gmail.com

cc: Hawaii Committee on Finance

Testimony from JasonGardner, Satellite Distributor

Chairman Oshiro and members of the Committee, thank you for the opportunity to submit written testimony in opposition to SB 756. My name is Jason Gardner and I am the President of The Satellite Guy, Inc. We sell satellite TV equipment to retailers throughout the state of Hawaii and have a large warehouse facility in Honolulu that employs 9 people.

I respectfully urge you to oppose SB 756, a bill that would unfairly impose a new tax on satellite TV service but not cable television. Now is not the time to strain consumers with new taxes, especially when they unfairly target one sector of the television industry.

Over the years, cable TV providers have been required to pay franchise fees in exchange for the right to tear up public sidewalks and roads for to install their cable wire. We in the satellite industry use more innovative technology, avoiding these costly and invasive business practices because our service signals are sent via the airwaves.

Imposing a new tax on satellite television service effectively penalizes our industry's strong business model. And to limit this new burden to our industry alone, I believe, results in a backdoor subsidy for a cable industry that is struggling to keep its competitive edge.

Additionally, given the economic climate in this country, now could not be a worse time to burden consumers with more taxes. Families are struggling enough as it is. And satellite television is one of the few remaining forms of entertainment that's actually affordable. To tax the satellite industry is to tax working class families.

As a businessman, I understand the cable industry is frustrated by the recent success of satellite television. But the state should not be picking winners and losers by penalizing customers of one company with a higher tax than paid by their competitor. This is government paternalism at its worst. Attempts to prop up one industry at the expense of another only hurts healthy market competition and an innovative national economy.

Thank you for allowing me to submit testimony before the committee.

Testimony of Microcom

In Opposition to SB 756

Dear Chairman Oshiro and Members of the Finance Committee: There is no question that governments require revenue to work. They generally get this revenue many ways one of which is taxes. Taxes are strange things in some cases, because rather than simply being taxes on everything at a particular rate, sometimes we charge lower taxes on things we want them to do or higher taxes on things we don't want them to do. Before this committee is a proposal to apply an additional unspecified excise tax on Direct Broadcast Satellite television. It is not a tax on all pay television services; it is only a tax on satellite television services. We don't know the logic behind assessing a tax only on satellite TV. All we know is the result and that result is satellite TV subscribers will pay higher taxes for pay television services than cable television subscribers.

That result concerns us because it is an act of government that favors one segment of an industry over another. If government can do that today, tomorrow it won't be satellite TV, it might be groceries or rental cars. Should Safeway have to worry about being taxed at a higher rate than Foodland? Should AVIS and Enterprise be worried that Hertz will convince the legislature to raise taxes on all the other rental car companies?

Over the last 15 years satellite companies have brought needed competition to the islands. Oceanic invested in upgrades to their physical plant and programming that may not have happened as quickly if at all without this competition. It has certainly had an effect on cable prices in both the residential and commercial market. This proposed tax is an assault on this competition. We understand the need for the State of Hawaii to look at new forms of revenue. However, taxes must be imposed fairly on all concerned. If a tax such as this is not imposed on cable television, we can only view the effort in the legislature as an attempt by a particular business to gain a competitive advantage using its significant political power. Governments should not and cannot pick winners and losers in private industry. In this bill the government will be telling its citizens, some of whom don't have access to cable, that we would prefer you do business with Oceanic Time Warner. How can that be good for anybody other than Oceanic Time Warner Cable?

Microcom is small business with providing retail sales, installation, and service for residential and commercial customers of DISH Network and DirecTV. Employing 22 people on 3 islands, we have been serving Hawaii for more than 12 years with offices in Kailua Kona and Kapolei.

Testimony of Satellite TV Installer

Chairman Oshiro and members of the Committee, thank you for the opportunity to testify today. My name is Donovan Jones and I work for DIRECTV. Our employees install and maintain satellite dishes on the homes and businesses of satellite TV customers here in Hawaii. We have approximately 50 technicians in Hawaii, some of whom are joining me today to show their support. I am here today to urge you to vote "no" on SB 756.

As satellite TV technicians, we spend our days speaking with local families who choose satellite television for its quality, affordability, and access. As satellite TV has become more popular over the years, our industry has come to rely on these families as the cornerstone of our business.

Every day, we see families whose budgets have been strained by the current economic environment. Many are doing everything they can to make ends meet, cutting back on expenses, especially when it comes to entertainment. Now, more than ever, they are depending on satellite television as a main source of recreation for their families. They rely on satellite TV for access to news, sports, movies, and shows because buying tickets to the big game or the popular play isn't as feasible as it used to be.

The new tax proposal being consdiered by the Hawaii Legislature will make even this basic luxury more expensive. It will put a new, burdensome tax on these families for no other reason than make it easier for the cable TV industry to do its business and stay competitive. At the same time, our customers' neighbors who subscribe to cable television, will get an exemption from this new tax.

As a result of this proposed tax, many of our technicians could be forced out of work because families will have to tighten their belts even more. We try our best to provide the most reliable service around. And we believe competition for customers is a healthy part of doing business. But we do not believe the Legislature should impose laws or taxes that adversely affect fair business and the everyday family's pocketbook.

Thank you very much for the opportunity to speak here today.

Donovan Jones

Testimony of Brendan Burchfiel
Owner, The Shack

Chairman Oshiro, Vice-Chairwoman Lee, and members of the Committee, thank you for the opportunity to submit written testimony. My name is Brendan Burchfiel. I am the General Manager of The Shack at Hawaii Kai here in Honolulu, and on behalf of the bar industry in Hawaii I urge you to oppose SB 756. This proposed price hike on satellite TV would have a negative impact bar owners, our employees, and the local families who are our customers.

In addition to our famous cheeseburgers, The Shack specializes in offering customers access to a wide variety of televised sporting events. Like many bar owners, we switched to satellite TV because satellite offers a better selection of sports, and better quality at a lower price.

Restaurant and bar owners operate on narrow profit margins. A new tax that increases the cost of satellite television has a real impact, particularly at a time when so many of us are struggling to get by.

This economic downturn has been extremely hard on local restaurants and bars like The Shack. We serve a mix of locals and tourists – and business has been down on both fronts. Local families living on tight budgets are eating out less, and we all know that the state's tourism industry has been struggling. It just makes no sense to impose new taxes that hurt restaurants and bars just as we are starting to come out of this long downturn.

And more importantly, it isn't fair. This bill punishes businesses like us for choosing Satellite TV by burdening us with a new tax -- while cable subscribers get a free pass.

As I see it, this bill helps no one but the cable companies. They are trying to keep more customers, not by improving their programming or lowering prices, but by driving up the cost of the competition.

Consumers should be able to choose the TV service they prefer based on what they care about – better programs, better service, and better prices. Please don't burden struggling Hawaii businesses with a new tax they cannot afford.

Testimony of Sandra Blinstrubas Kailua Kona

Members of the Committee. Two weeks ago the Senate removed the language in HB306 establishing an excise tax on direct broadcast satellite television. We believe they did this because the tax gave competitive advantage to one provider of television services over another, something all governments must consciously avoid. Now I find this same provision has been inserted in SB756 that is now being reviewed by the House Committee on Finance. I don't know how it got there, but it is just as unfair and discriminatory now as it was two weeks ago. The main proponent of the tax is Oceanic Time Warner Cable. That shouldn't surprise anybody since the tax doesn't apply to them. Mr Bob Barlow of Oceanic Time Warner Cable testified two weeks ago the franchise fees they pay in Hawaii is only a part of what it cost them to use the public rights of way in Hawaii. He wanted the Senate to consider the cost of maintenance and repair of the public rights of way they are using as a tax. If I rent a building I incur an obligation as part of that lease to perform certain maintenance and repair. Cleaning the building is my responsibility, replacing burned out lights is my responsibility, interior painting is my responsibility. These are not taxes, they are the cost of doing business. In addition Oceanic mentions the free services they have to provide to local government. What they don't say is that Federal Law requires this of them as well as of the satellite companies. It is called public interest programming. Finally Mr Barlow talks about how the fees help support broadband deployment to schools and libraries. I would like to remind Mr Barlow, we are not talking about Oceanic's broadband or telephone services and Universal Service Fund "taxes". We are talking about using the Government of Hawaii to give Oceanic a competitive advantage. Finally, Mr Barlow commented that ten other states recognized the inequity of the tax structure on satellite providers. I looked at the example of Tennessee and effective July 1, 2011, the sales taxes on all providers of cable and wireless cable television services are the same, returning equity to taxation.

The tax measure before the Committee does not maintain equity. It puts the State in the position of supporting one provider of television services over another. While the State has the power to tax, it must do so fairly and equitably.

Chuck Schumann

Kailua Kona