



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI`I S. LOPEZ
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE COMMITTEE ON FINANCE

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2013

Date: Monday, April 1, 2013
Time: 2:00 p.m.
Agenda #1

WRITTEN COMMENTS ON S.B. 1235, S.D. 2 - RELATING TO CABLE TELEVISION

TO THE HONORABLE SYLVIA LUKE, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Donn Yabusaki. I am the Acting Administrator of the Cable Television, Division of the Department of Commerce and Consumer Affairs ("Department"). The Department provides comment on this bill as amended.

The Department is willing to work with various interested stakeholders to assess methods to fund the development of a Hawaiian language television channel. The Department understands the intent of the Senate Committee on Commerce and Consumer Protection as stated in its standing committee report that this process should involve the Office of Hawaiian Affairs (OHA) as an interested stakeholder. The Department believes that OHA is the most appropriate lead in such an endeavor and is consistent with its statutory purpose. The Department is willing to work with OHA in an effort to support a Hawaiian language television channel. The Department suggests that the specific references to `Oiwī TV on page 2 line 3 and page 3 line 1 of the bill be replaced with a more generic reference to a "Hawaiian television channel." This will ensure that there is sufficient latitude in the process to select the entity or entities that will fulfill this function most appropriately.

The Department would like to note that franchise fees as currently allocated do not enable the Department to fund an unbudgeted program and will have a negative impact on existing programs.

The Department is willing to work with stakeholders to advance this important effort. Thank you for the opportunity to provide written comments on this measure.

COMMITTEE ON FINANCE

Sylvia Luke, Chair

Scott Y. Nishimoto, Vice Chair

Monday April 1, 2013

TESTIMONY OF JAY APRIL STRONGLY AGAINST SB1235 SD2

My name is Jay April and I am President and CEO of Akaku: Maui Community Television.

Community Television operations in Hawaii are recognized as some of the best in the nation. This success is due to the fact that in 1987, the Hawaii Legislature followed the lead of the Federal Government by adopting and putting into effect a "best practice" integrated PEG funding model whereby thousands of independent, non-profit PEG access centers created for the specific purpose of serving public, education and government constituencies provided low cost media training and meaningful access to cable television. Empowering NGO's, NPO's, community anchor institutions, schools, educators, individuals and local and native governments, this paradigm in Maui is a vibrant resource for the entire spectrum of Hawaiian thought and continues to enable freedom of expression and maximum civic engagement from diverse and varied points of view across a number of traditional and new media platforms.

SB 1235 SD2 is a well intentioned bill. Just about everybody I know and work with wants to see Hawaiian cultural values proliferate and Hawaiian language immersion programs succeed. These are worthy recipients too, but this effort needs to be funded, as Senator Representative Solomon has so eloquently and passionately stated, by OHA or from monies other than those apportioned from neighbor island PEG franchise fees. Over the years, several state studies have recommended against "splitting" franchise fee funds among special interests as very bad practice and it is not a good time to start now. This pits good organizations against each other unnecessarily and will divert funds from intended uses that will result in reduced benefit for all.

Noting the outstanding merit of providing tangible benefit to aid the development of a Hawaiian Language Channel on cable, opening up 440G to siphon money from PEG is not the way to go about this. Splitting the Baby is not the answer.

Some glaring problems with SB1235 are as follows:

1. SB1235 sets up a raid on neighbor island PEG funds a year down the road by opening up 440G to tampering by any number of vested interests, a dangerous precedent. This rubric will severely impact if not destroy existing PEG operations particularly in underfunded neighbor islands. It is likely to be in violation of the Cable Act and directs the DCCA to consider using cable television franchise fees collected pursuant to Chapter 440G to fund the development of an existing commercial Hawaiian Television channel available to only about 49% of subscribers. A federal Court of Appeals has held that it would violate the Cable Act for a government entity to use PEG funds to provide

programming that is available on local cable channels. The intended recipient of funds, O'iwi TV currently provides Hawaiian language, cultural and entertainment on an otherwise funded commercial cable channel

2. SB1235 in Section 2 has the potential to have a negative effect on Maui County's upcoming franchise negotiations. Implicit in Section 2 is what appears to be an advisory message to DCCA, in negotiating Maui County's Franchise renewal, to exact some sort of quid pro quo from Oceanic Time Warner to benefit an Oahu cable channel. At whose expense? At what specific benefit to Maui Nui?

3. SB1235 may be a violation of the prohibition on State control of PEG content and related constitutional claims. The Hawaii Supreme Court has ruled that the DCCA deliberately structured PEG channels "in such a way that the State would be shielded from any appearance of content control...." *OLELO v. OIP*, 173 P.3d 487, 488 (2007)

4. If the State starts to control the content of programming produced with PEG funds by mandating certain types of programming, producers who are not among those favored by the state may assert that their first amendment rights to free speech have been violated . PEG Access Centers have been empowering local democratic voices without censorship, corporate control or commercial consideration for more than twenty years and are perfectly positioned to have an immediate positive impact on Hawaii's and Native Hawaiian broadband future particularly in rural areas of Maui, Molokai and Lanai. On Maui, Akaku is highly regarded as an essential community anchor institution that gives voice to all of our residents on a variety of communications platforms. We currently provide 25% of all franchise fees received directly to DOE and UH and fully support all kinds of robust and thriving Native Hawaiian programs. Some of which in the past several months include: Broadband Mobile Journalism training, OHA elections forums, Cultural Resources Commission, Native Hawaiian Chamber of Commerce , several series on Hawaiian Issues, Hawaiian Language Immersion rallies, Kamehameha Schools Maui Intern Program, Molokai Makahiki, award winning films; Hawaii: A Voice of Sovereignty, Red Turtle Rising, Haleakala: A Sense of Place and live coverage of Maui Walk of Fame Honorees, George Kahumoku, Amy Hanaleii, and Richard Hoopii, ,

The bottom line is that it is a very bad idea to open up Chapter 440G in order to split Maui Nui's marketplace of ideas into fragments forcing good organizations to compete with one another for limited funds. Destroying a valuable proven community resource in is a high price to pay and something no one on Maui wants. The unintended result of this bill's passage will be to silence the many voices of the community that for more than twenty years has been providing tangible benefit to all. We need more voices, not less. OHA needs to fund this, not PEG.

Thank you for the opportunity to testify before you today.

**HOUSE OF REPRESENTATIVES
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2013**

COMMITTEE ON FINANCE

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**SB1235 SD2 Relating to Cable Television
Hearing: April 1, 2013, 2:00 p.m., Room 308**

Testimony in Opposition to SB1235

To the Honorable Chair, Vice Chairs and Members of the House of Representatives
Committee on Finance:

I strongly support Hawaiian language television, but I respectfully **oppose** SB1235, which proposes to fund Hawaiian language television by cutting funds for community access media under Chapter 440G.

Akakū: Maui Community Television and the public access media facilities across Hawai'i (‘Ōlelo Community Television, Nā Leo ‘O Hawai’i, and Hō’ike Kaua’i Community Television) provide all community members with open access to media production facilities and equipment and cable television channels.

Recognizing the value of public access media, Dee Jay Mailer, CEO of Kamehameha Schools, supports the intent of SB1235 but asks that the legislature “avoid what may be the unintended consequences of cutting PEG access funding for other valued communications services for our State.” [See testimony of Dee Jay Mailer to the Senate Committee of Commerce and Consumer Protection on February 14, 2013]

Here is a partial list of the programs shown on Akakū channels on **one day** (Sunday, March 31, 2013). These diverse programs produced by or about the Hawaiian community encourage everyone to learn about and respect Native Hawaiian culture.

Ka Ipu Kukui Fellows Program
Kana'iolowalu
Taro Festival 2011
Te Mana O Te Moana
Mariculture and Hawai'i (Walter Ritte of Moloka'i)
Ku / Ka Malu - Watching You
Hui O Wa'a Kaulua - Maui High Field Trip
Ko Hawaii Pae Aina
'Imi Na'auao 2011
Na'Opio - Paddle to Lana'i
2012 Molokai Hawaiian Language Summer School
Uhane Pohaku Na Moku O Hawai'i
Kalo Culture
Kaho'olawe Aloha Aina 1977
A Tribute to Queen Lili'uokalani
Malama Honokawai 2013
Lo'i of Honokohau
Quotes from Queen Lili'uokalani
Anthony Natividad
Lanai Cultural Resources Field School 2011
Turning the Canoe
Saving Oneloa
Ho'omau: A Hawaiian Documentary
Hui Laulima
Malama Kuleana Honua Conservation Award
Hui Malama Sustainable Garden Project
Malama I Ke Kai
Traditional Hawaiian Fishponds
Ho'olaulea O Hana

In the 1980s, Congress authorized local franchising authorities to use cable franchise fees to fund non-commercial, local, public access media facilities. Hawai'i became a leader in public access media, with Chapter 440G, a state statute that provides funds from cable franchise fees for public access media facilities in every county.

Today, a few large corporations dominate cable television, working together across the United States to shut down public access. Public access media continues to thrive only where state legislatures, regulatory authorities and the community stand strong in support of free, local and diverse community-based production and programming.

I join others who oppose SB1235 because it would fund Hawaiian language television programming by crippling community media. This can't be the right answer. Please amend SB1235 to delete the reference to Chapter 440G, the source of support for community access media across Hawai'i.

Mahalo a nui loa,

Suki Halevi

Director of Development

Akakū: Maui Community Television

Lā Ho'olohe Pila (Hearing Date/Time): Monday, 04-01-2013 2:00p
Lumi hālāwai (Meeting Room) Conference Room 308
Kōmike (Committee) House Committee on Finance
Pila (Bill) S.B. 1235 SD 2
Kumu (Purpose): RELATING TO CABLE TELEVISION
Mana'o (Position): **KĀKO'O**

Aloha Chair, Representative Luke, Vice Chair Representative Nishimoto and members of the House Finance Committee

'O au 'o 'Ekekela Aiona, Luna Ho'okele o ka 'Aha Pūnana Leo.
My name is 'Ekekela Aiona. I am the Executive Director of the 'Aha Pūnana Leo.

The 'Aha Pūnana Leo celebrates its 30th anniversary this year. We are connected to a statewide system of education in the medium of Hawaiian. Having reestablished a P-20 Hawaiian medium education system, it is now critical for our keiki and all Hawaiian language speakers to see Hawaiian being used all around them and there is no doubt that our keiki are being raised in a time where the power of the media is prevalent more than ever.

'Ōiwi TV (and Makauila) have a proven track record of producing programming in the Hawaiian language that raises the bar on expectations of video production standards for Hawaiian language video production. Their work over the last 5 years has made a huge impact on ensuring that our 'ohana, keiki and staff have high-quality Hawaiian language and culture media products to supplement language learning. There is no other organization or initiative who could better serve as the voice for the Hawaiian language community with video and television products.

I am writing in strong support of this bill and humbly request that the House Committee on Finance support SB 1235 SD2 allocate funds to serve the public need of normalizing 'ōlelo Hawai'i, a language that is acknowledged in the State's Constitution as one of the "...official languages of Hawai'i..." (Article XV, Section 4). "E Ola ka 'Ōlelo Hawai'i!"

Mahalo nui loa



From: Keoni Lee
General Manager, Co-Founder
'Ōiwi Television Network, Inc.
keoni@oiwi.tv

Subject: Testimony in Support of SB 1235, SD 2

Hearing: April 1, 2013, 2:00p.m. – Room 308

To: House Committee on Finance

Aloha e Chair Luke, Vice Chair Nishimoto, and members of the House Committee on Finance,

'O au 'o Keoni Lee, ka Luna Pā'oihana 'o 'Ōiwi TV. Mahalo for giving me the opportunity to testify in support of SB 1235.

'Ōiwi TV and our non-profit partner Makauila have an established track record of five years of funding, producing, and distributing high-quality Hawaiian language, cultural, and educational programming. Funding our activities for these early years has been a challenge but one that we continue to meet because our programming services a need, not only for the Hawaiian language community but also the larger community here and abroad. The quality of our work is well-known and recognized both locally and internationally. We have a 5-year relationship with Hawaii News Now (KGMB) through our 'Āha'i 'Ōlelo Ola Hawaiian language news segment and General Manager Rick Blangiardi commends the quality of our work. Additionally, as a member of the World Indigenous Television Broadcasters Network (WITBN), an international association of native language television stations, we have proven that our content measures up to the best of the best of our international peers. In 2012, 'Ōiwi TV was recognized with a World Indigenous Journalism Award at the bi-annual World Indigenous Television Broadcasters Conference in Norway.

As the only member of WITBN that is not publically funded, 'Ōiwi TV operates with a modest budget that is a fraction of our international peers but we have done much given those limited resources, proving our ability to effectively manage and strategize our operations. Our core strategies have been to leverage partnerships and technological advances to increase our efficiency and allow for growth as we scale our operations. We have invested heavily in workforce training, production equipment, and other infrastructure to ensure we are building a solid foundation that will allow us to reach our vision of an independent Native Hawaiian television service.

With this focus on the long-term vision, we continue to pursue strategies that allow us to make the best use of our current resources and position us for future opportunities like SB 1235. We have a proven track record, have exceeded all expectations, and provide a valuable public service and we believe that we have built a strong case. If funded, 'Ōiwi TV will be able to focus on mission-oriented activities and secure a reliable baseline-funding source, eliminating the need to pursue commercial production work in order to close operational funding gaps. The funding from SB 1235 and 440G will not be our sole funding source and our intent is to leverage these funds to diversify our revenue streams through partnerships and underwriting, creating a more sustainable and accountable operation. If we do not meet the needs and expectations of our audience and funders, we will cease to exist and rightfully so.

As for our future plans, the next step is for 'Ōiwi TV is to secure a long-term space to build out a studio because it will allow us to produce more content at a much lower cost, significantly increasing our operational efficiency. With on-site access to a dedicated studio, 'Ōiwi TV will have so many more options in producing a wider range of content for our audience. The more quality and selection of content

we can produce, the more we will build our audience and strengthen our ability to sustain operations. Examples of the content we would produce with a studio are a daily newscast, in-depth discussions on the current issues affecting our community, and musical and artistic performances.

As further evidence of our ability and desire to achieve long-term goals, 'Ōiwi TV is currently participating in an exclusive business development program with international social impact investors to evaluate and improve our strategic, financial, and branding position to build a successful and sustainable business model that ensures our service is provided to our community in perpetuity.

Mahalo again for this opportunity to testify in support of SB 1235 SD2 and provide additional information on our initiative for your consideration.

Me ka ha'aha'a,

A handwritten signature in black ink, appearing to read 'Keoni Lee', written over a thin horizontal line.

Keoni Lee
Co-Founder, General Manager

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 30, 2013 9:35 AM
To: FINTestimony
Cc: tutuprouty@aol.com
Subject: *Submitted testimony for SB1235 on Apr 1, 2013 14:00PM*

SB1235

Submitted on: 3/30/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Jacqueline Prouty	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [FINTestimony](#)
Cc: sallyraisbeck@hawaii.rr.com
Subject: Submitted testimony for SB1235 on Apr 1, 2013 14:00PM
Date: Saturday, March 30, 2013 3:42:25 AM

SB1235

Submitted on: 3/30/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Sarah V Raisbeck (Sally)	Individual	Oppose	No

Comments: Please OPPOSE SB1235. This is well-intentioned, but will damage public access TV without meaning to.

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From: mailinglist@capitol.hawaii.gov
To: [FINTestimony](#)
Cc: lou@maui.net
Subject: Submitted testimony for SB1235 on Apr 1, 2013 14:00PM
Date: Friday, March 29, 2013 8:05:46 PM

SB1235

Submitted on: 3/29/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Diliberto	Individual	Oppose	No

Comments: Although this is for a worthy cause, Hawaiian television for the state. It's ultimately a shot at the P.E.G. monies allotted by the state from cable franchises. These monies are for the public's access to the media. That means everyone, not just one group. This is a BAD way of obtaining funding for Hawaiian TV. It appears to be a way of splitting up P.E.G funding by pitting one group against another. Please do not support this bill.

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From: mailinglist@capitol.hawaii.gov
To: [FINTestimony](#)
Cc: katrackshawaii@aol.com
Subject: Submitted testimony for SB1235 on Apr 1, 2013 14:00PM
Date: Friday, March 29, 2013 10:05:33 PM

SB1235

Submitted on: 3/29/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Kat Tracy	Individual	Oppose	No

Comments: I don't believe the intention of the cable franchise fees was for this purpose, look for other ways and funds to support Hawaiian language....

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FINTestimony

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Sent: Saturday, March 30, 2013 9:34 AM
To: FINTestimony
Cc: suntrots@aol.com
Subject: Submitted testimony for SB1235 on Apr 1, 2013 14:00PM

SB1235

Submitted on: 3/30/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Theresa Roberts	Individual	Oppose	No

Comments: I am oppose to this legislation. Money should not come from Public Access Funds that are paid by those that subscribe to cable in Hawaii. I am not oppose to Hawaiian programming, but there are other funding possibilities. We have so many laws already, this should not become a law. There are many intities that have been given money to promote Hawaiian programming. Hawaii is made up of all nationalities.

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Sent: Saturday, March 30, 2013 6:29 PM
To: FINTestimony
Cc: a1han1nah@yahoo.com
Subject: Submitted testimony for SB1235 on Apr 1, 2013 14:00PM

SB1235

Submitted on: 3/30/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Marie Ullman	Individual	Oppose	No

Comments: Is it really necessary for Time Warner Oceanic Cable to break out in there bill that pennies are going to Akakū? Seems like they could break out their bill even more... But then what would that be serving... Only TWOC! They are using government owned rights of way to run their cable to service all their USA customers with only the fee to provide back to the people! April fools!? I strongly oppose this bill.

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Sent: Saturday, March 30, 2013 7:51 AM
To: FINTestimony
Cc: jonthebru@gmail.com
Subject: Submitted testimony for SB1235 on Apr 1, 2013 14:00PM

SB1235

Submitted on: 3/30/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
John Bruce	Individual	Oppose	No

Comments: Regarding SB1235: I understand that the Honorable Senators and Representatives are striving to balance a rising State Budget. I understand that the monies accumulated through PEG Access Fees are a tasty morsel hanging from the tree of the Citizens Assets... But it behooves the elected Senators and Representatives to understand that at stake here is a vital concept of Freedom of Speech and expression. More money should be directed toward the PEG Centers, not less. Look around and see the lack of a forum for the average person to "get the word out" or to view and be informed by another persons effort to "Get the word out!" Preserve the money gathered for Public Access and in fact, if possible, increase the flow to improve the financial well-being of the centers.

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Lā Ho‘olohe Pila (Hearing Date/Time): Monday, April 1, 2013 2p
Lumi hālāwai (Meeting Room) Conference Room 308
Kōmike (Committee) House Committee on Finance

Pila (Bill) SB1235SD2: RELATING TO CABLE TELEVISION.

Mana‘o (Position): **KĀKO‘O (SUPPORT)**

Aloha e Lunaho‘omalu ‘o Luke, Hope Lunaho‘omalu ‘o Nishimoto me nā lālā o ke Kōmike Ho‘olako Kālā

Aloha Chair Luke, Vice Chair Nishimoto and members of the House Committees on Finance.

‘O au ‘o Nāmaka Rawlins e **kāko‘o** ana i kēia pila.

My name is Nāmaka Rawlins. Mahalo for giving me the opportunity to testify in support of this bill allocating resources to support Hawaiian language media content development and distribution through a strong Hawaiian media broadcast initiative.

I have been involved in the Hawaiian language revitalization movement for 30 years, first as a non-traditional student learning Hawaiian then as a volunteer at the Pūnana Leo o Hilo preschool for 5 years before leading the ‘Aha Pūnana Leo as its Executive Director for nearly 20 years. Today I serve as the Director of Strategic Partnerships and Collaborations for the organization. The ‘Aha Punana Leo operates 11 Punana Leo Family-Based sites on five islands, Hawai‘i, Maui, Moloka‘i, O‘ahu and Kaua‘i. The program is conducted solely in Hawaiian, from administration through to direct services that then prepare our keiki and ‘ohana to pursue life-long learning grounded in the Hawaiian language. Our preschools serve over 250 keiki per year in our 11 sites throughout the state. There are also 20 Hawaiian Immersion and Hawaiian medium schools under the state’s DOE and Charter Schools programs serving over 2,000 students per year. We have seen the number of Hawaiian language speakers grow over the past 30 years, brining our ‘ōlelo back from the brink of extinction. Recent studies show that there are over 26,000 Hawaiian language speakers today.

Over the years, I have served on local and national education boards and commissions, including Chair of the Native Hawaiian Educational Council and board member of the National Indian Education Association (NIEA). During my tenure with the National Indian Education Association – the only American Indian, Alaska Native and Native Hawaiian national educational organization – we advocated in Congress for support of language and culture-based education. The Hawaiian language movement continues to be a leader and model nationally and internationally for indigenous language revitalization.

One of the tenets of language revitalization research shows the need for language to return to the home and we now see a new generation raising their own families speaking Hawaiian again. Language revitalization research also encourages the use of the language by local governments and mass media once early restoration stages, including the educational system, have been established.

As the former Executive Director of the ‘Aha Pūnana Leo, and my 30 years of personal commitment to, and involvement in, the Hawaiian language revitalization movement, I see the expansion of Hawai‘i’s communication systems to include dedicated resources for production and distribution of Hawaiian language content on television allowing us to build on the efforts to date to reach a long-term goal of creating a full-service Hawaiian Media Broadcast initiative as the next-step for ‘ōlelo Hawai‘i.

SB1235 would provide access to Hawaiian broadcast media a much-needed and desired service to our community. As the Hawaiian language flourishes in its homeland, this will ensure that our communities

of Hawaiian language learners and speakers are provided equitable production and distribution of Hawaiian language broadcast media.

These efforts also increase the broader non-Hawaiian speaking community's understanding of, and appreciation for, our 'ōlelo Hawai'i that is a critical piece in normalizing our language.

SB 1235 will provide state support not only for more quality Hawaiian media content but for a budding Independent Native Hawaiian Television service, a strategy that thriving native languages across the globe are implementing to ensure that native language is the medium of the operation, not just the product of the work.

This bill will help Hawai'i continue to be a leader and model for supporting native language revitalization efforts, incorporating one of the tenets of language revitalization strategies into our efforts here in Hawai'i; the presence and use of Hawaiian language in a concerted, well-focused media initiative, run by entities that have experience in producing high-quality Hawaiian language and culture content from a Hawaiian perspective.

This bill will move us closer to the equitable distribution of state resources for the perpetuation of Hawaiian language and culture as mandated in the constitution of our state. Ua mau ke ea o ka 'āina i ka pono.

Mahalo again for this opportunity to support this important measure. "E Ola Ka 'Ōlelo Hawai'i!"