

**SB-1156**

Submitted on: 3/6/2018 3:33:03 PM

Testimony for EDB on 3/9/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Randall Francisco	Individual	Support	No

Comments:

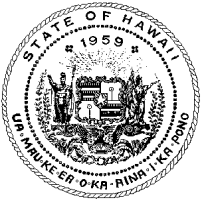
**SB-1156**

Submitted on: 3/6/2018 4:18:34 PM

Testimony for EDB on 3/9/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Louis Erteschik	Hawaii Disability Rights Center	Support	No

Comments:



# HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 • PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

March 9, 2018  
Rm. 309, 11:00 a.m.

To: The Honorable Cindy Evans, Chair  
Members of the House Committee on Economic Development and Business

From: Linda Hamilton Krieger, Chair  
and Commissioners of the Hawai‘i Civil Rights Commission

Re: S.B. No. 1156

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in public accommodations, HRS chapter 489, including § 489-9.

HRS § 489-9 was added to chapter 489 by the enactment of Act 39, L. 2015, effective January 1, 2016. However, Act 39 and HRS § 489-9 were subsequently amended by the intervening enactment of Act 211, L. 2017, effective July 12, 2017.

As enacted in 2015, Act 39 was considered landmark legislation for the deaf community, because it required a limited number (2) of open captioned movie showings per week, that were not required by federal ADA Title III requirements and US Department of Justice rules.

Enactment of Act 211 in 2017 effectively eliminated the open captioned showing requirement that made Act 39 additive and supplemental to the federal requirements. Act 211 reduced the required number of open captioned showings from two to one per week. However, by inserting the “or” between the amended H.R.S. § 489-9(a)(1) and (2), it effectively eliminated the requirement for any open captioned showings for theaters that provide closed captioning systems by means of lightweight eyewear. It did so without defining “lightweight eyewear,” or any numerical requirement for the number of lightweight eyewear units a theater would have to provide at each theater or megaplex location. (The US DOJ federal rule requires a megaplex with 8-15 auditoriums to have 8 captioning devices, which could be eyewear or other captioning devices

used by patrons at their seats.)

Section 3 of Act 39 originally included a “drop dead” or “sunset” provision that provided for the repeal of the Act on January 1, 2018. In addition to substantive amendments to HRS § 489-9, Act 211 amended Section 3 of Act 39 to change the “sunset” date from January 1, 2018, to January 1, 2020.

S.B. No. 1156 would delete the original “sunset” provision of Section 3 of Act 39. In 2017, when S.B. No. 1156 was introduced and first heard, the HCRC supported the repeal of the “sunset” provision, because it would have made permanent the original Act 39 requirement that movie theaters provide at least two open captioned showings per week of each motion picture that is produced and offered with open movie captioning. Unfortunately, with the intervening enactment of Act 211, that is no longer the case, as the substantive requirements of Act 39 have been effectively eviscerated.

**The HCRC continues to support the original intent and purpose of S.B. No. 1156**, as stated by the Senate Committee on Labor and Judiciary: “...to remove the sunset date of Act 39, Session Laws of Hawaii 2015, thereby making permanent the requirements for a public accommodation that owns, leases, leases to, or operates a motion picture theater in more than two locations in the State to provide open movie captioning during at least two showings per week of each motion picture that is produced and offered with open movie captioning and audio descriptions upon request for all motion pictures for which such accommodations are available and provide public notice if such accommodations are not available for certain movies.”

**However, in light of the intervening enactment of Act 211, the HCRC suggests that the original purpose of S.B. No. 1156 can be effected only if the bill is amended to restore the substantive requirements of Act 39 by amending HRS §489-9 accordingly. The necessary language for amendment of HRS § 489-9 for this purpose can be found in S.B. No. 2650, S.D.2, which was passed by the Senate and has been transmitted to the House, or in H.B. No. 2370.**

With this suggested amendment, the HCRC would support a S.B. No. 1156, H.D.1.

**SB-1156**

Submitted on: 3/8/2018 7:50:36 AM

Testimony for EDB on 3/9/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Theresa Ewan	Individual	Support	No

Comments:

March 7, 2018

Representative Cindy Evans  
Chair, Economic Development & Business  
Hawaii State Capitol Room #438  
415 South Beretania Street  
Honolulu, Hawai'i 96813

Dear Representative Evans,

It is time to have open-captioned films in all movie theatres instead of having to wear closed captioning devices such as glasses, or a rear-view plastic panel mounted on a flexible stalk to view the captioning, and other types of closed captioning devices. I would like to go to a movie theater with open captioning displayed on the screen without a device.

The Deaf and Hard of Hearing should not be forced to wear or use special equipment to read the captioning. Open captioning provides equal access to watching movies just like hearing people watch movies with audio.

Hearing people are not required to wear or use special devices to listen and watch the movie. The passage of Senate Bill 1156 will provide equal access to movie theaters for the Deaf and Hard of Hearing.

I am suggesting that Senate Bill 1156 be amended by deleting the contents and inserting language from Senate Bill 2650 or House Bill 2520.

Mahalo,

Theresa Ewan



**SB-1156**

Submitted on: 3/8/2018 7:51:24 AM

Testimony for EDB on 3/9/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Darlene Ewan	Individual	Support	Yes

Comments:

March 7, 2018

Representative Cindy Evans  
Chair, Economic Development & Business  
Hawaii State Capitol Room #438  
415 South Beretania Street  
Honolulu, Hawai'i 96813

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I am suggesting that Senate Bill 1156 be amended by deleting the contents and inserting language from Senate Bill 2650 or House Bill 2520.

Mahalo,

Darlene Ewan

**SB-1156**

Submitted on: 3/8/2018 7:52:46 AM

Testimony for EDB on 3/9/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Darlene Ewan	Aloha State Association of the Deaf	Support	Yes

Comments:

March 7, 2018

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We are suggesting that Senate Bill 1156 be amended by deleting the contents and inserting language from Senate Bill 2650 or House Bill 2520.

Mahalo,

Darlene Ewan

President



**SB-1156**

Submitted on: 3/8/2018 8:28:09 AM

Testimony for EDB on 3/9/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

PRESENTATION OF THE  
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES  
DEMOCRATIC PARTY OF HAWAII  
TO THE COMMITTEE ON ECONOMIC DEVELOPMENT &  
BUSINESS

THE HOUSE OF REPRESENTATIVES  
TWENTY-NINTH LEGISLATURE  
REGULAR SESSION OF 2018  
Friday, March 9, 2018  
11:00 a.m.

Hawaii State Capitol, Conference Room 309

RE: Testimony in Support of **SB1156** RELATING TO MOVIE THEATERS  
To the Honorable Cindy Evans, Chair; the Honorable Jarrett Keohokalole, Vice-Chair  
and the Members of the Committee on Economic Development & Business:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **SB1156** relating to Motion Picture Theaters; Accommodation; Open Movie Captioning; and Audio Description.

The OCC Legislative Priorities Committee is in favor of **SB1156** and supports its passage.

**SB1156** is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it removes the sunset date of Act 39, Session Laws of Hawaii 2015, thereby making permanent the requirements for a public accommodation that owns, leases, leases to, or operates a motion picture theater in more than two locations in the State to provide open movie captioning during at least two showings per week of each motion picture that is produced and offered with open movie captioning and audio descriptions upon request for all motion pictures for which such accommodations are available and provide public notice if such accommodations are not available for certain movies.

Act 39 was intended to improve accessibility and address the discriminatory effects of communication barriers at movie theaters encountered by individuals who are deaf, hard of hearing, deaf blind, or blind or have low vision.

Specifically, the Platform of the Democratic Party of Hawai'i provides that "[w]e seek programs that prepare people with disabilities for independent and productive lives. We are committed to the elimination of glass ceilings that prevent women and minorities from advancing to the highest levels of government, education and business. (Platform of the DPH, P. 3, Lines 34143-145 (2016)).

Given that **SB1156** removes the sunset date of Act 39, Session Laws of Hawaii 2015, thereby making permanent the requirements for a public accommodation that owns, leases, leases to, or operates a motion picture theater in more than two locations in the State to provide open movie captioning during at least two showings per week of each motion picture that is produced and offered with open movie captioning and audio descriptions upon request for all motion pictures for which such accommodations are available and provide public notice if such accommodations are not available for certain movies, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

## **JAN L. FRIED • American Sign Language/English Interpreter**

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• RID Certified-IC, CI, CT • Educator • Consultant •

07 March 2018

The House of Representatives  
Twenty-Ninth Legislature, 2018, State of Hawai'i  
Committee on Economic Development and Business  
Rep. Cindy Evans, Chair  
Rep. Jarrett Keohokalole, Vice Chair

Hearing: 09 March 2018 at 11:00AM, Conference Room 309

### **Testimony in Support of SB 1156 -Relating to Movie Theaters**

*Aloha* Representatives Evans and Keohokalole and EDB Committee Members,

It is without hesitation that I support the continuation of Open Captioning (OC) in Hawai'i's movie theaters and removal of the sunset date of Act 39. Maintaining Open Captioning makes good sense for a number reasons: it has a proven track record of success and preferred by Deaf and hard of hearing movie-goers over Closed Captioning; it does not require expensive equipment nor specialized eyewear that is cumbersome and at times, ineffective to use; OC is low maintenance—new releases come caption ready; and OC has been enjoyed by people who can hear. I, for one, can attest to its effectiveness. I appreciate and use OC when watching an action-packed movie that is loud and obliterates the dialogue or when the actors are speaking softly. OC allows me to catch dialogue that I would otherwise miss and helps me stay abreast of the storyline.

There are other positive points to Open Captioning. It is not obtrusive and only momentarily distracting when a movie first starts for those who choose not to read the captions. Two showings a week with OC give viewers a choice with minimal impact on the theater itself. Open Captioning attracts viewers who bring their dollars and loyalty with them. OC provides an equivalent and timely movie-viewing experience for everyone. When OC is in place, there is no need for potential audience members to be forced to wait until films are released on DVD or available through streaming services. Allowing movie goers the opportunity to see the dialogue also benefits English language learners. Clearly, providing OC is beneficial for many community members and ultimately for the theatres, themselves.

I appreciate this opportunity to encourage the committee to support SB 1156 and recommend that this bill be merged with the proposed changes in SB 2560, SD 1. Your actions will have a profound and positive impact.

Respectfully,

*Jan L. Fried*

Jan L. Fried, CI and CT

Nationally Certified ASL/English Interpreter

March 7, 2018

TESTIMONY TO THE HOUSE COMMITTEE ON  
ECONOMIC DEVELOPMENT & BUSINESS

Senate Bill 1156 – Relating to Movie Theaters

Representative Cindy Evans  
Chair, Economic Development & Business  
Hawaii State Capitol Room #438  
415 South Beretania Street  
Honolulu, Hawai'i 96813

Dear Representative Evans,

It is time to have open-captioned films in all movie theatres instead of having to wear closed captioning devices such as glasses, or a rear-view plastic panel mounted on a flexible stalk to view the captioning, and other types of closed captioning devices. I would like to go to a movie theater with open captioning displayed on the screen without a device.

The Deaf and Hard of Hearing should not be forced to wear or use special equipment to read the captioning. Open captioning provides equal access to watching movies just like hearing people watch movies with audio.

Hearing people are not required to wear or use special devices to listen and watch the movie. The passage of Senate Bill 1156 will provide equal access to movie theaters for the Deaf and Hard of Hearing.

I am suggesting that Senate Bill 1156 be amended by deleting the contents and inserting language from Senate Bill 2650 or House Bill 2520.

Mahalo,

Anna Guzman

March 7, 2018

TESTIMONY TO THE HOUSE COMMITTEE ON  
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Mahalo,

Bernissa Gidado

March 7, 2018

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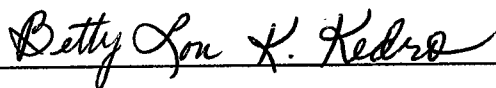
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Mahalo,

  
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March 7, 2018

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Mahalo,

BILLY HUGHES





March 7, 2018

TESTIMONY TO THE HOUSE COMMITTEE ON  
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Mahalo,

Cynthia Enríquez

March 7, 2018

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Mahalo,

Dominique Celeste Wihebysh

March 7, 2018

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Mahalo,

ELMER HIRD

March 7, 2018

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Mahalo,

Ferdinand Beraud

March 7, 2018

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Mahalo,

#Olani Nlokepwi

March 7, 2018

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Mahalo,

Janice Hird

March 7, 2018

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Mahalo,

A handwritten signature in cursive script, appearing to read "Jayden", is written over a horizontal line.



March 7, 2018

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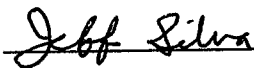
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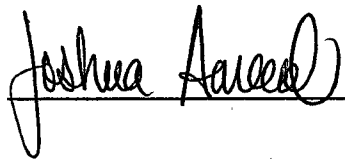
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I am suggesting that Senate Bill 1156 be amended by deleting the contents and inserting language from Senate Bill 2650 or House Bill 2520.

Mahalo,

Kayla-Ann

March 7, 2018

TESTIMONY TO THE HOUSE COMMITTEE ON  
ECONOMIC DEVELOPMENT & BUSINESS

Senate Bill 1156 – Relating to Movie Theaters

Representative Cindy Evans  
Chair, Economic Development & Business  
Hawaii State Capitol Room #438  
415 South Beretania Street  
Honolulu, Hawai'i 96813

Dear Representative Evans,

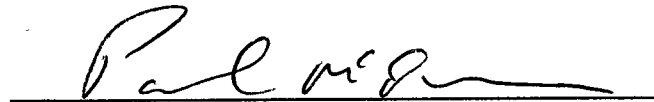
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Mahalo,



Paul Mc Donnell  
540 Kaimake Loop  
Kailua HI 96734

March 7, 2018

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Mahalo,

Peter Balding III

March 7, 2018

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Mahalo,

Seamus Ikeda

March 7, 2018

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Mahalo,

STANLEY RICCOBONO

March 7, 2018

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Mahalo,

Stephanie Steinlein-Balding



March 7, 2018

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Mahalo,

Takeuchi Jonas

March 7, 2018

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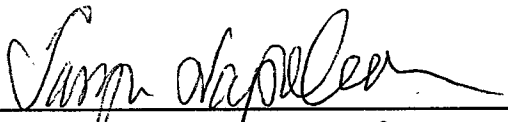
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Taryn Napoleon

March 7, 2018

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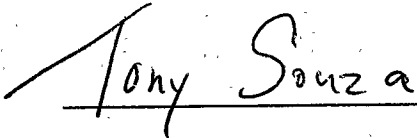
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March 7, 2018

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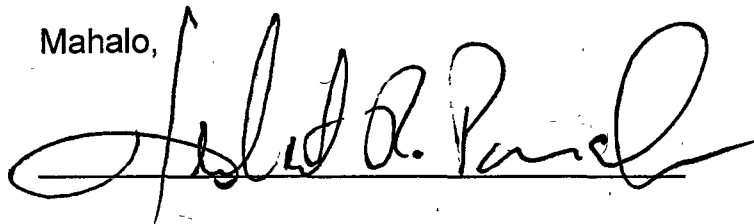
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Mahalo,

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CHINA



March 7, 2018

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Senate Bill 1156 – Relating to Movie Theaters

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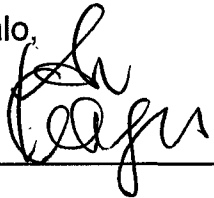
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March 7, 2018

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Mahalo,

Nancy Silva

March 7, 2018

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**Mahalo,**

Jessie Hagano

March 7, 2018

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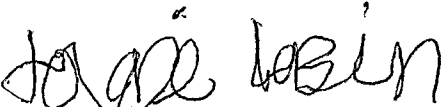
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March 7, 2018

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March 7, 2018

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Jeffery Jakana

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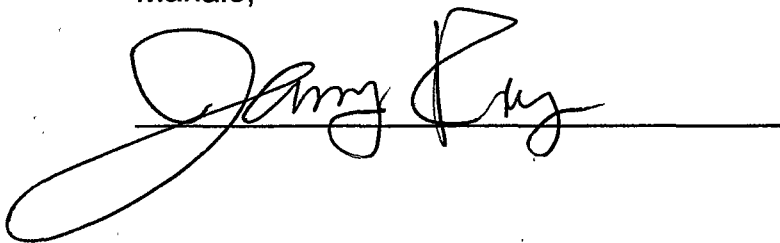
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I am suggesting that Senate Bill 1156 be amended by deleting the contents and inserting language from Senate Bill 2650 or House Bill 2520.

Mahalo,

A handwritten signature in black ink, appearing to read "Jimmy Kuy", is written over a horizontal line.

March 7, 2018

TESTIMONY TO THE HOUSE COMMITTEE ON  
ECONOMIC DEVELOPMENT & BUSINESS

Senate Bill 1156 – Relating to Movie Theaters

Representative Cindy Evans  
Chair, Economic Development & Business  
Hawaii State Capitol Room #438  
415 South Beretania Street  
Honolulu, Hawai'i 96813

Dear Representative Evans,

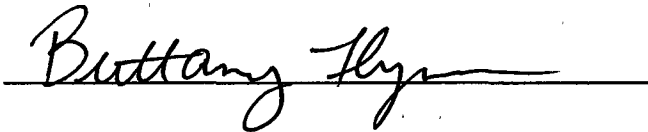
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Mahalo,

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March 7, 2018

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Senate Bill 1156 – Relating to Movie Theaters

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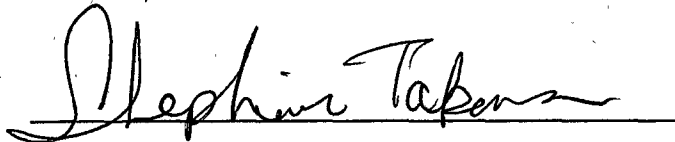
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Mahalo,

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March 7, 2018

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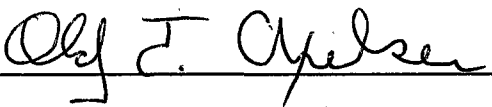
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Mahalo,

Berni Golden

March 7, 2018

TESTIMONY TO THE HOUSE COMMITTEE ON  
ECONOMIC DEVELOPMENT & BUSINESS

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Mahalo,

John R. King

March 7, 2018

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Mahalo,

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March 7, 2018

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Senate Bill 1156 – Relating to Movie Theaters

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March 7, 2018

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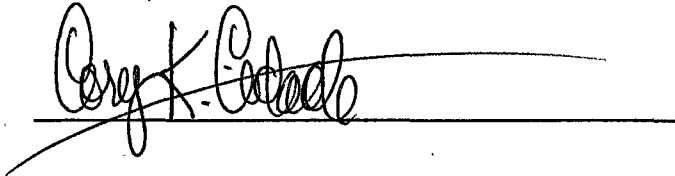
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Mahalo,

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March 7, 2018

TESTIMONY TO THE HOUSE COMMITTEE ON  
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Senate Bill 1156 – Relating to Movie Theaters

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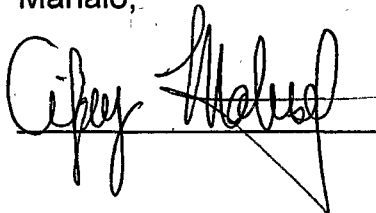
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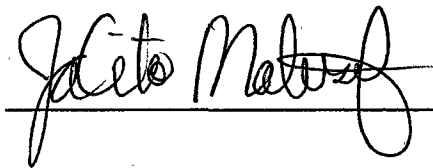
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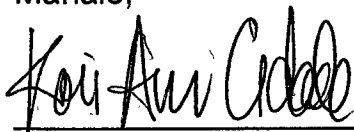
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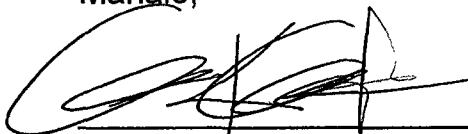
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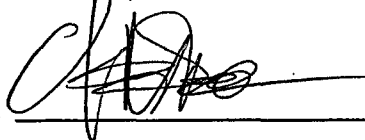
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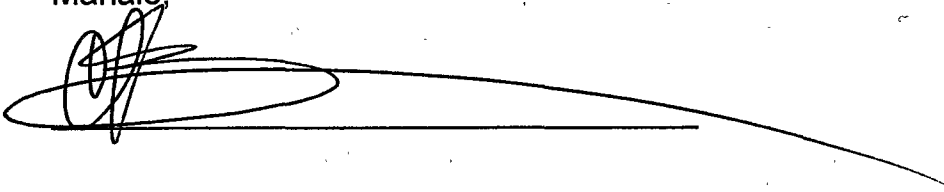
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Mahalo,

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March 7, 2018

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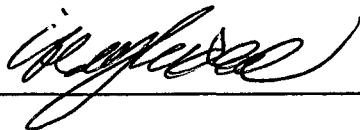
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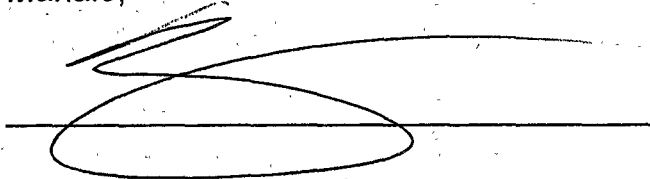
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Mahalo,

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March 7, 2018

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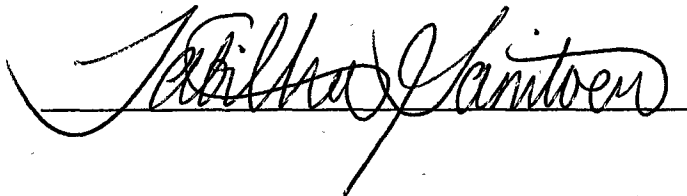
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March 7, 2018

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I am suggesting that Senate Bill 1156 be amended by deleting the contents and inserting language from Senate Bill 2650 or House Bill 2520.

Mahalo,



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March 7, 2018

TESTIMONY TO THE HOUSE COMMITTEE ON  
ECONOMIC DEVELOPMENT & BUSINESS

Senate Bill 1156 – Relating to Movie Theaters

Representative Cindy Evans  
Chair, Economic Development & Business  
Hawaii State Capitol Room #438  
415 South Beretania Street  
Honolulu, Hawai'i 96813

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G'ei-Perahtu

March 7, 2018

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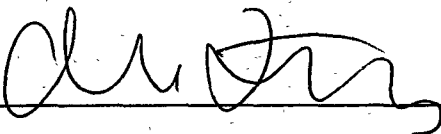
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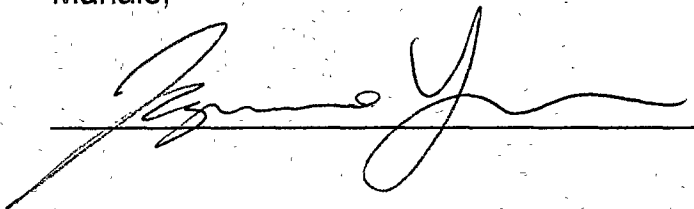
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March 7, 2018

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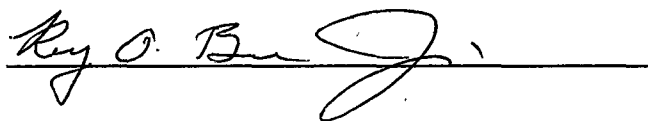
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March 7, 2018

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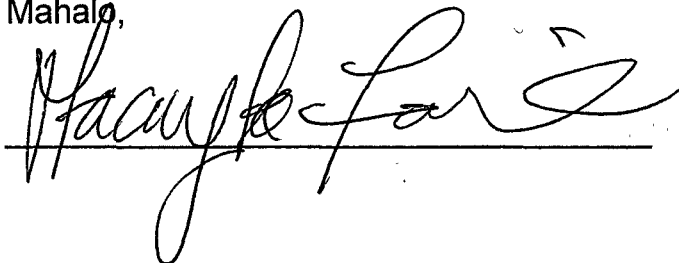
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March 7, 2018

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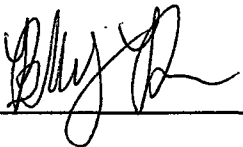
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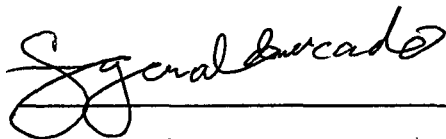
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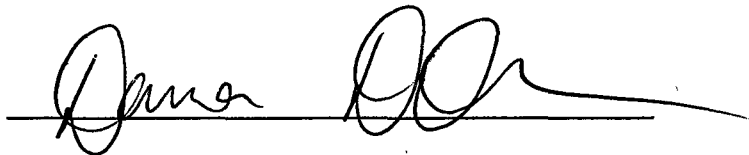
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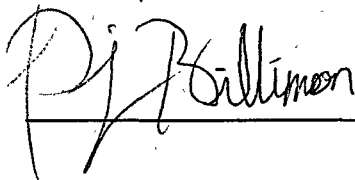
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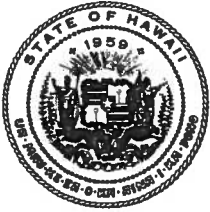
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## DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813  
Ph. (808) 586-8121 (V) • Fax (808) 586-8129 • TTY (808) 586-8162

**LATE**

March 9, 2018

### TESTIMONY TO THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND BUSINESS

#### Senate Bill 1156 – Relating to Movie Theaters

The Disability and Communication Access Board (DCAB) supports the intent of Senate Bill 1156 which intends to strengthen our state's law relating to the provision of open captioning movie showings for the deaf and hard of hearing population. However, Senate Bill 1156 is a carryover bill from the 2017 session and the law that it intends to amend was already amended in 2017, thus making the contents of this bill problematic. We instead recommend substituting the contents of Senate Bill 2650, Senate Draft 2, which recently passed the House and crossed to the Senate. The contents of that bill reflect amendments that are appropriate to the current language of the statute.

The Legislature passed Act 39 (2015) that required movie theaters with more than two locations to offer each movie produced with captions to have two showings/week with open captioning, similar to subtitles. Times were at the discretion of the theater. This state law augmented the federal requirements to offer an assistive technology option to view movies with closed captioning. Act 211 (2017) rolled back the rights in Act 39 (2015) to (a) require one, versus two, viewings per week, and (b) allow no open captioned viewings if the theater offered lightweight glasses as an alternative.

Senate Bill 2650, Senate Draft 2 essentially seeks to revert the statute to the status provided in Act 39 (2015) without a sunset date and with some additional conditions on the movie screening times.

These changes to the law would afford individuals who are deaf or hard of hearing an equal opportunity to attend open captioned movies and follow the audio aspects of movies exhibited in motion pictures similar to the general public. In a community that readily accepts subtitled foreign language movies and television programs, open captioning is a natural expansion of that concept.

Our support for the bill is based upon two factors:

- (1) The deaf community strongly prefers open captioning to any type of eyewear, even if lightweight. It is a myth that the current federal law with closed captioning was preferred at the federal level by the deaf and hard of hearing community; it was a compromise to the industry. When a person uses the lightweight glasses, they are labeled out as deaf, whereas when captions are shown, the deaf community are not singled out.
- (2) It is inappropriate to reference a specific type of technology in statute. Federal law allows theaters to use any option to view closed captions while our state law limits viewing to only one option. With the rapid technological advances, there is likely to be a better solution in the future than lightweight glasses and our statute would then be stuck with a reference to obsolete technology in the law.

We wish to address some of the comments from the testimony of the two movie theaters in their prior testimony on the issue of captioned movies:

- (1) The theaters state that the bill will deprive patrons the option to seeing the closed captioning at any show time on any day and will leave them with no choice but attend limited open captioned shows. This is NOT true. Under federal law, all the showings that are not open captioned must still have the option to be viewed with assistive technology. This bill will not negate federal law but supplement it. This bill is about providing CHOICE to the consumers who prefer open captioning to using any assistive device. For any given show in a week, there would still be approximately thirty shows without open captioning.
- (2) The theaters state that there has been an increase in the use of personal captioning devices since Act 39 or Act 211. This is, in part, because they were not available before such time and the availability coincided with the passage of the federal law requiring movie theaters to have a specific number of assistive devices.
- (3) The theaters claim that the theater has lost revenue due to lower attendance at open captioned movies, as stated in the Department of Business, Economic Development, and Tourism's study. This misleading, as the open captioned showings have consistently been at non-peak times where attendance is lower in general. It would be inappropriate to infer causation – that the lower attendance was attributed to the captioning.

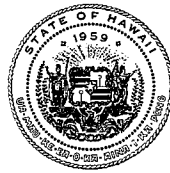
We ask that you pass Senate Bill 1156 with our recommendation to replace the wording with the contents of Senate Bill 2650, Senate Draft 2.

Thank you for the opportunity to testify.

Respectfully submitted,



FRANCINE WAI  
Executive Director



**LATE**

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
**OFFICE OF LANGUAGE ACCESS**  
830 PUNCHBOWL STREET, ROOM 322  
HONOLULU, HAWAII 96813

March 9, 2018

To: The Honorable Cindy Evans, Chair  
Members of the House Committee on Economic Development and Business

From: Aphirak Bamrungruan, Executive Director

Subject: **SB 1156 – RELATING TO MOVIE THEATERS**

Hearing: Friday, March 9, 2018, 11:00 AM  
Conference Room 309, State Capitol

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**Agency's Position:** The Office of Language Access (OLA) supports the original intent and purpose of SB 1156.

**Purpose and Justification:** The original purpose of this measure is to remove the sunset date of Act 39, Session Laws of Hawaii 2015, thereby making permanent the requirements for a public accommodation that owns, leases, leases to, or operates a motion picture theater in more than two locations in the State to provide open captioning during at least two showings per week of each motion picture that is produced and offered with open captioning, and also requires movie theaters to provide audio description upon request of any motion picture that is produced and offered with audio description.

The purpose of OLA's enabling statute (Hawaii Revised Statutes 321C) is to address the language access needs of limited English Proficient (LEP) persons and ensure their meaningful access to services, programs, and activities offered by the executive, legislative, and judicial branches of state government, including departments, offices, commissions, boards, or other state-funded agencies.

SB 1156 benefits more than the Deaf, Deaf-Blind, and Hard of Hearing. Open captioning provides a critical link to communication and making information accessible to Limited English Proficient (LEP) individuals and English-Language Learners (ELLs). Using open captioning can be a great tool for LEP individuals and ELLs to enjoy movies and to increase an opportunity to learn the correspondence between spoken and written language.

However, Act 211, Session Laws of Hawaii 2017 reduced the required number of open captioned showings from two to one per week and allowed no open captioned viewings if the theater offered lightweight glasses as alternative.

In consideration of the enactment of Act 211 (2017), the original purpose of SB 1156 can only be affected if the bill is amended to restore the requirements of Act 39 (2015). Therefore, OLA respectfully suggests that SB 1156 be amended by replacing the wording with the contents of SB 2650, S.D. 2.

Thank you for the opportunity to testify on this bill.