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Statement by
Michael W. Palkovic,
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Before the Senate Taxation Committee
Carson City, Nevada, Tuesday, April 8, 2003

- I appear before you today to comment on SB492, a bill that seeks to impose a 5% tax on the gross revenue of direct broadcast satellite companies --- later I would like to comment on SB382, a bill that a seeks to impose a 3% sales tax on DBS and other services.

- DIRECTV, which is owned by Hughes Electronics, a subsidiary of General Motors, is the nation's leading satellite television broadcaster, offering our more than 11 million subscribers access to hundreds of digital video and audio channels.

- In a few short years, satellite TV has captured almost a quarter of the nation's subscription TV business. Today there are approximately 118,000 satellite TV subscribers in Nevada, compared to 418,000 cable TV subscribers.

- Unlike cable TV, DBS places no infrastructure burden on the state or its communities -- no wires on poles, no digging trenches for cables. Our signals come from satellites orbiting 22,000 miles above the earth.

- We are an industry, that has succeeded in its significant growth because we provide a superior service at an affordable price.

- This tax flies in the face of Federal policy, created to encourage DBS to become a viable competitor to the nation's entrenched cable franchises. The Telecommunications Act of 1996 mandated a pro-competitive climate for the budding DBS industry and called on the FCC to drastically reduce regulation of the TV industry so as to bring prices down to an affordable level.

- In the five years after cable was deregulated in 1996, according to *Consumer Reports*, cable rates rose by 44.7%, inflation by 16.5% -- and satellite by a mere 5%. Many believe cable rates might have soared even higher, were it not for the competition provided by satellite.

- It is no secret that the cable TV industry has been a strong proponent of imposing taxes on satellite TV, their major competitor. They use as their rationale the fact that they pay franchise fees to the cities they serve and thus should be spared the imposition of sales taxes on their services in return. This argument is specious. Franchise fees, according to the FCC and the Federal Courts, are simply rent that cable firms pay to communities for an exclusive franchise, and to compensate for the

EXHIBIT U Committee on Taxation
Date: 04/08/03 Page 1 of 2

burden they place on the community's infrastructure when they dig trenches or string wires. It is a business arrangement that they pursue aggressively, and -- to quote a Federal Appeals Court Judge -- "cable franchise fees are costs no different than the general manager's salary, marketing costs and programming costs." In our case, the Federal Government collects fees from us for our orbital parking slots.

- If -- in your wisdom -- - you proceed to impose the gross revenue tax on the direct broadcast industry, then you must apply it to the cable TV industry since the services provided are essentially the same. Fairness and the Commerce Clause of the United States Constitution demand this. The Commerce Clause prohibits state taxes on interstate commerce that have no nexus to the taxing state, that are not fairly related to services provided by the taxing state, and that discriminate against interstate commerce.

- There are three times as many cable subscribers as satellite subscribers, so if its money you're after, why go for a slice when you can just as well go after the entire pie? This way you would get more revenue overall, and could significantly reduce the tax rate, thus impacting the beleaguered consumer less.

- In conclusion, I ask you not to impose this gross revenue tax on our industry. We provide information, education and entertainment to your citizens without placing any burden whatsoever on your infrastructure.