March 2, 2020

Delegate Anne R. Kaiser
Chair, House Ways and Means Committee
House Office Building, Room 131
Annapolis, Maryland 21401

RE: House Bill 1628 – Written Testimony in Opposition

Honorable Chairwoman Kaiser, Honorable Vice Chair Washington and esteemed Committee members, thank you for recognizing me today. My name is Edward Ben. I am a Maryland CPA employed as a Senior Director by the Altus Group. Altus Group is a global consulting firm providing independent tax advisory services, software and data solutions to our clients worldwide. Altus Group is publicly traded on the Toronto Stock Exchange with its headquarters located in Toronto. Altus Group has 75 offices worldwide, one of which is the branch office located in Hunt Valley Maryland, of which I am very proud.

Among the beautiful Baltimore County horse farms, I along with 74 other professionals that comprise Altus's Maryland branch office, provide state & local tax consulting and compliance services to a variety of companies across the country. Altus also provides these services from our offices in Phoenix, AZ, Atlanta GA, Chicago, IL, Dallas, TX, and Tysons Corner, VA. Our state & local tax compliance practice prepares over 45,000 returns a year for some of the largest companies in the country.

Altus has grown by providing expert state & local tax services at fair market prices to an increasing base of satisfied clients. We operate in a highly competitive marketplace. We bid on tax engagements against other firms in response to nationwide or regional requests for proposals. Many of our competitors are out of state with no location in Maryland. While expertise is prized, price-point is a major factor for buyers of our services. Continued growth keeps our Maryland-based employees working and engaged in meaningful careers. These careers, in turn, add to the many sources of tax revenue for the State.

The passage and enactment of House Bill 1628 would put Altus Group at a competitive disadvantage and endanger job creation. We are keenly aware of market pricing and bid our services accordingly. If our bids contain pricing that is 5% higher than those from other, out of state firms, we stand less of a chance of winning the work.

Passage of HB 1628 would also increase our operating expenses. The cost of all services purchased and used in the provision of our expert services by skilled employees from our Maryland branch office would increase by 5%.

Passage of HB 1628 would increase our administrative burden. Human and capital resources would be diverted in good faith attempts to properly interpret and administer a yet unwritten set of rules for a sales tax system that the Comptroller of Maryland has no experience with or regulations for. Clarity in application of the law would likely not be obtained for years until differing interpretations are settled through audit and litigation.

Passage of HB1628 would put Altus at a competitive disadvantage compared to those firms that only have an economic nexus with Maryland as opposed to our modern office in the rolling hills of Baltimore County. Out of state companies don't have to pay Maryland sales tax until they surpass $100,000 in gross revenue or 200 transactions within the previous or current twelve-month period. Altus Group would have to

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charge its customers this new 5% sales tax from the very first dollar of its state & local tax consulting revenue. Many of our competitors outsource the labor needed to provide similar services overseas and would likely charge no Maryland sales tax.

Altus Group has investors to which it must answer. If the Maryland branch office misses its revenue goals because of lost engagements due to tax-related above-market pricing, budget cuts must be made and hiring targets must be adjusted.

If the Maryland branch office has smaller margins due to tax-related higher operating costs, budget cuts must be made, and current employment levels must be adjusted.

If the Maryland branch office faces higher potential audit risks caused by operating in an uncertain sales tax environment with increased and complex governmental regulation, future expansion decisions must be made.

Perhaps the considerations that I mention in regard to HB 1628 create impermissible burdens on interstate commerce or cause the Bill to be discriminatory on its face. We'll let the attorneys settle that. But when asked by upper management if it makes economic sense to grow our business through the Branch office in Maryland as opposed to our offices in Arizona, Georgia, Illinois, Texas or Virginia, as an objective CPA and trusted business advisor to my employer I would have to rank Maryland low on the list of choices, if not last or not at all. And that rankles me.

As a thirty-year Maryland resident, taxpayer and voter I respectfully remind the Committee that while Altus has investors to answer to, you have constituents to answer to. House Bill 1628 rankles them too. Instead, let's find ways to make the State of Maryland one of the greatest in the nation. Let's enact laws that attract capital investment and corporate headquarters instead of settling for tax policy that contributes to its cities and counties serving merely as branch towns.

I have attached written comments from two of our clients, one of which is a well-known investment company with significant operations in the state of Maryland and the other is a utility company providing cogeneration facilities to Maryland hospitals and hotels (Please see Exhibit A). These comments echo and amplify the administrative burdens and competitive disadvantages HB 1628 will create for in-state Maryland businesses. I urge the committee to closely read and consider our client's concerns in addition to those presented above.

I respectfully urge the Committee to oppose HB 1628 and give it an unfavorable recommendation. I thank you for your time.

Respectfully Submitted
Altus Group U.S., Inc.

By Edward H. Ben

Edward H. Ben, CPA

EXHIBIT A

One of our clients is a well-known investment company with significant operations in the state of Maryland. They also have operations in several other states. The sourcing of customers for them would be fairly complicated. They expect that they would need to collect and remit Sales taxes on all direct and indirect management fees paid by Maryland clients, through their investment funds, regardless of where the services are performed. Technically, we believe that under the benefit rule, competitor fund complexes with no Maryland operations would also need to collect and remit sales taxes on behalf of Maryland based clients. However, as they have no further connections with the State of Maryland, they are unlikely to do so.

The intended goal of taxing services performed for Maryland residents by Maryland businesses has the unintended consequence of making our home-grown businesses (that add to economic activity and add to our tax base in the form of good paying jobs, property taxes, home ownership, etc.) less competitive, relative to out of state businesses. This resulting perception that Maryland is not a friendly place to do business will cost our local economy jobs and will erode the tax base you are trying to preserve. The alternative is that they investigate whether they can source their management fees based upon the domicile of their investment funds, which can easily be restructured to remove any connection to Maryland such that there would be no sales taxes paid.

On the flip side, our client, with their multi-state operations use service providers both within and outside of Maryland. Over time, they would shrink the Maryland operations to remove certain key functions from the state. The uncertainties created by having service providers (legal, consulting, independent contractors, etc.) provide services where it is unclear whether the benefit relates to the Maryland operation is significant. Remitting use taxes in such situations is not practical given the multi-state nature of the business and significant non-MD operations. We expect this to be a similar issue with the thousands of Maryland business that do business within and without Maryland

UNISON
ENERGY

We respectively request that this impact statement be considered by the Kirwan Commission on public education regarding the impact of energy and other tax increases on Maryland businesses, employment, public safety, and energy efficiencies.

Summary:

Unison Energy's microgrids provide three benefits to its non-profit regional and community hospital and hotel convention center customers in Maryland:

1. Energy resiliency: our clients benefit from continuous power during utility outages so that they don't have to shut down operations;
2. Energy and capital infrastructure cost savings: our microgrid solutions reduce our clients' annual energy costs with no upfront capital expenses or maintenance costs whatsoever for our clients; these savings are realized while they still pay tax on their energy services provided by Unison Energy;
3. Sustainability: our microgrid solutions are cleaner, in terms of greenhouse gas emissions, than the utility power plants serving the State.

Significant increases in energy, and other corporate taxes, will have a substantial impact to our energy-as-a-service business, our Maryland-based construction and operations employees, and most importantly our customers who employ +9,000 Marylanders and all the Marylanders who use their medical and hospitality facilities represented by +109,000 patient days and + 550,000 room nights respectively.

Passing additional taxes on manufacturing equipment, construction services and energy services will limit the number of facilities where Unison can implement energy microgrids. For our healthcare customers, they may no longer be able to continue to fully operate during homeland security or weather-related public safety events without our microgrid solutions. The energy cost savings from these projects also allow many of our customers to utilize their scarce capital resources to upgrade customer-facing facilities (vs. central plant infrastructure) and / or deploy those savings to provide more robust health services to the general public by investing in more advanced diagnostic tools or additional medical service offerings; all of these resources matter in times of personal or public distress. In general, business tax increases will make it much more difficult for these organizations to update and upgrade their energy infrastructure, fortify their facilities with much-needed energy resiliency infrastructure, achieve their sustainability goals, and invest these savings in equipment and services to better meet the Maryland communities they serve.

Maryland and local utilities generally welcome cogeneration and microgrid projects by supplying construction and production incentives (i.e. the Maryland Energy Administration Grants and Delmarva / PEPCO EmPower rebates) to help businesses improve their energy efficiencies, reduce their carbon foot print, and reduce stress on the grid in Maryland during times of need and crisis. Unison Energy's clients have been applauded by Governor Larry Hogan for their CHP solutions, thereby expanding grid resiliency: reduced power loads on the grid mean more resources for residents on high-demand days of extreme heat or cold.

Public safety impact:

Our regional and community hospital customers provide a valuable resource during catastrophic storms or other emergencies in economically-challenged areas – their current diesel based back-up generation sometimes cover critical care and operating rooms but not the entire facility; if a utility emergency occurred during very hot or very cold weather periods, their facilities, and beds, may not be fully operational. Recent hurricane and other natural disaster events have highlighted the vulnerability of hospitals and their patients to catastrophic energy failure; during hurricane Sandy and Harvey, many hospitals ran out of diesel fuel. The ongoing coronavirus contingency planning highlights other events that can potentially stress the healthcare delivery infrastructure that is dependent on reliable energy.

With our focus on non-profit regional and community hospitals and large hotels, our microgrid solutions allow these facilities to fully function during a utility outage and provides our customers with a level of energy resiliency that ensures that they are fully operational: lights, HVAC systems, neo-natal, critical care, dialysis and surgery centers, as well as power to all of their critical care equipment such as MRIs, CAT-Scan, X-ray and other important diagnostic tools, necessary during a major grid outage by weather, cyber-attack, or any other act of terrorism. Without our solution, these facilities would most likely not be fully available to the communities they serve during times of need.

Environmental sustainability benefits:
Unison Energy also helps customers reach their sustainability goals by reducing their carbon footprint by 20-40% or more and, when combined with solar, up to 40-60%. For a client with an annual electric spend of $500,000, this is equivalent to reducing 600 to 700 metric tons of carbon per year (or removing 127 cars from the road each year) and eliminating emissions equivalent to burning 72,870 gallons of gasoline each year. What we do for Maryland is good for its tax base and good for the environment.

Who we are:
Unison Energy engineers, installs, owns, operates, and maintains on-site power generation utilizing microgrid systems base-loaded with cogeneration solutions. Unison is Maryland's leading provider of cogeneration-based microgrid energy solutions. Cogeneration produces both electricity and thermal energy on site, replacing or supplementing electricity provided from a local utility and fuel burned in an on-site boiler or furnace. Microgrids with base-loaded cogeneration solutions provide greater energy efficiencies, reduced energy costs, increase energy reliability, and will sustain facility operations if the utility power goes offline; microgrids also provide a more environmentally friendly energy solution than the local utility. Savings generated from our energy microgrids can be re-invested in mission-critical infrastructure such as diagnostic equipment or other critical facility infrastructure upgrades.

We have employees throughout Maryland, predominantly U.S. military veterans, that perform technical and mechanical services on our projects.

Existing operational contracts in Maryland:
- Doctors Community Hospital, Lanham MD – 1,500 employees and doctors; 20,204 patient days
- Union Hospital of Cecil County, Elkton MD – 1,575 employees and doctors; 20,823 patient days
- Peninsula Regional Medical Center Hospital, Salisbury MD - 3,300 employees; 68,669 patient days
- Gaylord National Resort and Convention Center, Fort Washington MD - 2,033 employees; +550,000 room nights
- FedEx Distribution Center, Hagerstown, MD - 500+ employees