

TESTIMONY
HB 2518 HD1
LATE

LATE TESTIMONY

testimony

From: Kent Fonoimoana [kent@trisland.com]
Sent: Tuesday, March 11, 2008 2:52 PM
To: testimony
Subject: HB 2518,HD1 (HSCR1007-08) Committee on Water and Land

Chairman Hee and Committee members:

I support HB 2518, HD1 and its intent to offer tax credit incentives to those who choose to assist in preservation efforts. I support the preservation of Hawaii's open spaces. Our most precious resource, the beauty of these islands, is in current need of all available measures to protect it from further loss of what makes it special.

I support all groups that support the true spirit of this bill.

Kent Fonoimoana
Citizen of Hawaii

THE SENATE

THE TWENTY-FOURTH LEGISLATURE

REGULAR SESSION OF 2008

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair

Senator Russell S. Kokubun, Vice Chair

NOTICE OF HEARING

DATE: Wednesday, March 12, 2008

TIME: 2:45 p.m.

PLACE: Conference Room 414

3/11/2008

HB 2518, HD1

(HSCR1007-08)

RELATING TO LAND CONSERVATION.

Provides a tax credit to encourage the preservation
and protection of

conservation land in the state. (HB2518
HD1)

Kent Fonoimoana
TRIsland Home Inspections
#808-294-9991
www.TRIsland.com
"For your peace in paradise"

testimony

From: sunsetyards@mac.com
Sent: Tuesday, March 11, 2008 9:36 PM
To: testimony
Subject: HB 2518, HD1 (HSCR1007-08) RELATING TO LAND CONSERVATION. NOTICE OF HEARING DATE: Wednesday, March 12, 2008 TIME: 2:45 p.m. PLACE: Conference Room 414

LATE TESTIMONY

To :The COMMITTEE ON WATER AND LAND
Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

"I am a North Shore resident and registered voter of Hawaii. I live on the beautiful North Shore of Oahu and I am in favor and support HB 2518,HD1 (HSCR1007-08)
This bill will encourage land owners to put their land into conservation. Many States already have such tax credits and it is time for Hawaii to join in this Nationwide need. I support this bill because it will encourage more to protect and preserve more open spaces for now and for generations to come.
Thank you and Aloha

Joy McDougall

testimony

From: scoleman34@aol.com
Sent: Tuesday, March 11, 2008 6:15 PM
To: testimony
Subject: Support for HB 2518

LATE TESTIMONY

Testimony for HB 2518 from THE TRUST FOR PUBLIC LAND

Dear Chair Ito and Committee Members:

My name is Stuart Coleman, and I am the Vice Chair of the Surfrider Foundation's Oahu Chapter. I am writing to urge you to support passage of HB 2518 because this bill will help in our efforts to reserve more land for the public, including the purchase of the lands at Kawela Bay.

As development and urban sprawl increase, concern about the future of land use and its relation to Hawai'i's natural resources, economy and heritage have come to the forefront of community concern. Some of these concerns are protected and embodied in recent laws providing funding for the acquisition of private lands for public conservation purposes. The recent State Legacy Lands Act is but one example. Funding from programs such as the Legacy Lands Conservation Program yield great benefits to the people of Hawai'i, but further incentives are necessary to provide alternatives to the tremendous financial pressures to convert needed agricultural or conservation land to other uses that generate greater revenue. It is also impossible for the government to acquire and take care of all of these lands.

HB 2518 provides a voluntary incentive for private landowners to protect our precious lands and offers an alternative to acquisition and government management. It advances conservation by creating a competitive class of land use in an economy where conversion by private landowners to other uses are an attractive or economic necessity. I urge you to support HB 2518.

Mahalo, Stuart Coleman

TESTIMONY

HB 2518 HD1

LATE

(END)

TESTIMONY
HB 3177 HD1
LATE

LATE TESTIMONY

Senate Committee on Water and Land

Sen. Clayton Hee, Chair

Sen. Kokubun, vice Chair

Hearing: Wednesday March 12, 2008 at 2:45 pm in rm 414

Re: Testimony in Support of HB 3177 [REDACTED]

The effort this year to correct the problem of unauthorized commercialism on Hawaii's public beaches, while much needed, seems to me to be redundant. State land use law already prohibits most of the problems legislators are attempting mitigate with new legislation. My concern with this package is it fails to speak directly to the Waikiki grandfather situation. Increasing civil penalties for land use violations without addressing the Waikiki grandfather situation, is problematic. failing to address this situation could further entrench DLNR in what has long been a policy of preferential treatment for certain shoreline hotels. As you know a number of these hotels are being allowed to use up all the public beach space with commercial equipment without being subject to environmental or procurement law as is normally required when public lands are involved. In the summer of 2006 Peter Young actually told the Kailua Neighborhood Board that the Waikiki commercial policy, he described as a "monopoly," should be applied across the board to all areas under DLNR. He made reference to the CSV study on holding capacity and needing clear guidelines to mitigate user conflicts in high profile areas that are considered to be strained by over-use. Thus, in trying to explain the proliferation of surf and kayak tours, and why certain types are permissible while others are prohibited, Peter Young told the Kailua Board that a company at the Hilton has been operating a surf school business on public property (Dukes beach) in a "creative" way that gets around the permit requirements. He tried to say that this particular company was not technically illegal because "they do not use signage." This while C&K was paying the state \$1,800 a month for exclusive use of Dukes beach. In fact the company Peter referred to not only had been using signage but was later cited for illegal land use along with the Hilton (WBA), and C&K who was allowed to return to the area the very next day; they are still without permits! See attachments for short summary on the Hilton beach permit.

Grandfather-history

When DLNR took the helm from DOT in the mid Seventies they immediately grandfathered certain shoreline hotels exempting them from state procurement requirements, not to mention the commercial prohibitions stipulated in the 1928 Waikiki Agreement (which resulted in a 75 foot set back requirement). Just prior to DLNR taking over from DOT, the public Lands Commissioner had ordered the shoreline hotels "back to their properties!" The Land Commissioner had informed the hotels in writing that the 1928 law prohibiting "commercialism of any kind in or

on Waikiki beach" was still applicable, that they were in fact in violation of the prohibitions stipulated in that document. The DOT then issued an injunction prohibiting shoreline hotels from encroaching (commercially) into the "public sector of the beach." When this is pointed out to DLNR officials they almost always refer to loop holes in the law to excuse the problem. That's not technically land use they say because "no permanent structures are being placed on a public beach" etc. Besides they say many other comparable violations are occurring across the state, which are otherwise considered "violations under the law." It's important to point out here that the City and County has an effective system of preventing commercial abuse. The County issues a revocable transit permit that is simple and effective both as a deterrent to over-use and as a way of protecting Hawaii's natural resources. This system is not perfect but its effective in that it can and does correct problems related to the permit, unlike DLNR, who continues to see all the citations they issue thrown out of court. Closely related to the problem of closing off shoreline or beach access is the issue of commercial abuse of public parking stalls. Commercial vehicles for example are almost always forced to compete with the public for parking stalls at public facilities where parking is limited. In most cases the commercial companies in question are issued blue cards from DLNR which are not revocable I'm told. This is the opposite approach than that of the City and County who will revoke a transit permit upon discovery of a violation. HB 3177 and HB 3178 while seemingly aimed directly at the problem falls short of addressing the loop holes that are responsible for creating what legislators are calling a twenty year old problem. The Coast Guard by the way has recently indicated that DLNR cannot issue ORMA cards that designate certain public beaches or oceans for private commercial use.

Confusion created over the definition of "land use."

"Land use" according to DLNR deputy Russell Tsuji, means erecting or placing a "permanent" structure on state lands. Parcing with DLNR over the difference between conservation lands, unencumbered, or submerged lands, only distracts from the fact that these are all basically "public lands." The general public moreover is likely to treat these areas generally as public beaches, as Kuleana parcels, easements, and or as public trails (I suspect these are the same classifications given by the courts). The problem therefore is with DLNR, who continues to fail to apply the correct term to the problems they encounter at a public beach or state harbor. The point is even when they are clearly within their jurisdiction to issue citations (enforce the law), DLNR officials will still fail to process a complaint. Addressing the Waikiki situation directly in these bills is therefore the only way to get DLNR to abandon its long held grandfather policy. Doing this will in tern close the loop holes that have long been exploited both by DLNR and by commercial interest. I've included in my testimony official statements regarding the Waikiki situation. These statements were offered both by the new chair and by Peter Young who is no longer at DLNR. I've also include a sample of a Waikiki hotel RFP along with newspaper articles that show intense

public conflict over what is wrongly termed a "resort" beach. Lastly I've included some history of the way DLNR dealt with the C&K bankruptcy that occurred at Duke's beach, this involved the Hilton taking over the beach contract from C&K. Multiple permit violations were simply overlooked by DLNR in the process leading up to the Hilton taking over the concession from C&K in 2006.

Solution to the so called creative commercialism phenomenon....

Direct the new DLNR Chair to immediately revoke all blue cards and ORMA decals, and to initiate a Chapter 91 process for issuance of commercial permits pursuant to state law etc. HB 3178, HB 3177 are part of the governor's package but SB 2196 and HB 2332, could further establish or require commercial permitting for all companies using a public beach for business. By requiring permits the hotels along the Waikiki shoreline would no longer be allowed to issue RFP's nor would DLNR be allowed to treat shoreline hotels any differently than anyone else. The bill requiring Conservation District Use Permits (HB 2332) was rejected by DLNR and by the commercial lobby, leaving me wondering if there are forces working to thwart any sort of effort requiring permitting. The wedding industry is already begging for exemptions, next the surf schools will be demanding the same treatment!

TESTIMONY

HB 3177 HD1

LATE

(END)

TESTIMONY

HB 3178

LATE

Senate Committee on Water and Land
Sen. Clayton Hee, Chair
Sen. Kokubun, vice Chair

LATE TESTIMONY

Hearing: Wednesday March 12, 2008 at 2:45 pm in rm 414

Re: Testimony in Support of [REDACTED] HB 3178

The effort this year to correct the problem of unauthorized commercialism on Hawaii's public beaches, while much needed, seems to me to be redundant. State land use law already prohibits most of the problems legislators are attempting mitigate with new legislation. My concern with this package is it fails to speak directly to the Waikiki grandfather situation. Increasing civil penalties for land use violations without addressing the Waikiki grandfather situation, is problematic. failing to address this situation could further entrench DLNR in what has long been a policy of preferential treatment for certain shoreline hotels. As you know a number of these hotels are being allowed to use up all the public beach space with commercial equipment without being subject to environmental or procurement law as is normally required when public lands are involved. In the summer of 2006 Peter Young actually told the Kailua Neighborhood Board that the Waikiki commercial policy, he described as a "monopoly," should be applied across the board to all areas under DLNR. He made reference to the CSV study on holding capacity and needing clear guidelines to mitigate user conflicts in high profile areas that are considered to be strained by over-use. Thus, in trying to explain the proliferation of surf and kayak tours, and why certain types are permissible while others are prohibited, Peter Young told the Kailua Board that a company at the Hilton has been operating a surf school business on public property (Dukes beach) in a "creative" way that gets around the permit requirements. He tried to say that this particular company was not technically illegal because "they do not use signage." This while C&K was paying the state \$1,800 a month for exclusive use of Dukes beach. In fact the company Peter referred to not only had been using signage but was later cited for illegal land use along with the Hilton (WBA), and C&K who was allowed to return to the area the very next day; they are still without permits! See attachments for short summary on the Hilton beach permit.

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TESTIMONY

HB 3178

LATE

(END)

TESTIMONY

HB 3272

LATE

RE: HB 3272 – relating to Public Lands: Auction; current Lessee; March 12, 2008; 2:45 pm, Conference Room 414
Fax: 586-6659, Senate Sgt.-at-Arms Office

Honorable Senator Clayton Hee
Committee on Water and Land, Chair

Honorable Senator Russell S. Kokubun
Committee on Water and Land, Vice Chair

LATE TESTIMONY

RE: HB 3272 – relating to Public Lands: Auction; current Lessee
and Improvements – IN SUPPORT with additions

Good Afternoon Chair Hee, Vice Chair Kokubun and Committee Members:

My name is Linda Wong, I am a resident of Pualei Circle in Diamond Head and use the businesses in the Kapahulu Ave. Area. I am also a member of the Diamond Head, Kapahulu, St. Louis Heights Neighborhood Board and other community groups. I find that HB 3272 is a vehicle to keep Public Lands an option for the General Public use, even though DLNR and BLNR wants to auction or lease all available public lands for the highest commercial gain. DLNR seems to be having some expense problems due to the funds repaid to DLNR by the Federal Government for Federally funded projects not being deposited into DLNR's account.

There are two small lots on Kapahulu Ave. and I think that keeping them open for Public use instead of the highest commercial gain should be a possible option and HB 3272 would give all communities this option. The 548 Kapahulu Ave. Property that was slated by the City Council for a Community Center for our area is an especially good example of this option not being recognized. The City also commissioned John Waylen to do the study on this vision.

There 2 small lots in the Kapahulu Ave. area, which represent public land not having the option to be used for public use are:

- 1) 548 Kapahulu Avenue, the former Dept. of Health Center Clinic, which is directly across from Uncle Bo's and Irifune Restaurants and St. Mark's Church. This property was left vacant after the Dept. of Health Center closed. The businesses in this area are paying a month-to-month parking fee to the State for their customers to use the lot for parking. There are a lot more customers using this lot. The Diamond Head, Kapahulu, St. Louis Heights Neighborhood Board, Kapahulu Business Association, and other community groups have all asked BLNR to lease the land to a commercial parking lot as DLNR would have an income stream and the public would be able to keep the parking it needs. I feel this property should continue to offer parking for our Public.
- 2) Property under the H1 Freeway (East bound) overpass bounded by Kapiolani Boulevard, S. King Street and Kapahulu Avenue. This is located across from Market City Shopping Center. This was the old Tree People site. It is a very odd shaped lot, but could serve as a Skateboard Park for several Neighborhoods, which have a large constituency that wants to take responsibility for making and running the Skatepark. The YMCA has promised to help plus others in the community. I have worked on skateparks before and am in contact with all stakeholders. This would replace the old Skatepark where the City now runs its City Vehicle program under the freeway.

I urge an addition to include a provision to continue Public Land usage for the Public as another condition under Auction of Public Lands. The Lessees may also be entitled to bid for the property, but it should also include for Public usage.

Thank you for this opportunity to testify.

Linda Wong
3071 Pualei Circle #203
Honolulu, HI 96815

TESTIMONY

HB 3272

LATE

(END)

TESTIMONY
HB 3173 HD1
LATE

testimony

From: RawcoHI@cs.com
Sent: Tuesday, March 11, 2008 8:20 PM
To: testimony
Subject: Testimony in support of HB 3173 with refinement

LATE TESTIMONY

TESTIMONY IN SUPPORT OF HB 3173 With Refinement

Senate Committee on Water and Land
Hawaii State Capitol
Room 414 on Wednesday, 12 March 2008 at 1445

Chair Hee and Respected Members of the Committee:

My name is Reg white. I am a tenant and a resident of Ala Wai Small Boat Harbor. For the past fifty five years I have been a licensed U.S. Merchant Marine Officer. I have served as master aboard salvage tugs and am very familiar with the performance required to mitigate the potential damage from a grounded vessel. Time is of the essence here, and each bureaucratic delay increases the possibility of increased damage to our natural resources and pollution to our beaches and nearshore waters. It is important that this bill be passed in a form so that DLNR may remove grounded vessels before they become wrecks. The 72 hour waiting period for the owner to appear and/or take responsibility for the removal of his vessel is suicidal in length. If the owner is not able or willing to take responsibility immediately and/or the vessel cannot show that it is insured for the risk involved, then DLNR must be able to move immediately to mitigate the chances of damage and pollution. This expedient removal will also reduce the cost to the state coffers as it's much less expensive to tow off a grounded vessel than it is to clean up the debris of a wreck. This bill seeks to cut the red tape and allow immediate removal of grounded vessels, thereby reducing the potential to increase the annual number of wrecks that must be removed because of the delays to action under the present system. Please modify it by eliminating the 72 hour delay so that this goal may be achieved and then pass this much needed bill.

Please give this bill your support.

Thank you,

Reg White
Vice president, project development
Paradise Cruise, Ltd.
1540S. King St.
Honolulu, HI 96826-1919
(808) 222-9794
RawcoHI@cs.com

testimony

From: rhardlydavison@aol.com
Sent: Wednesday, March 12, 2008 2:52 AM
To: testimony
Subject: TESTIMONY IN SUPPORT OF HB 3173 With Refinement

LATE TESTIMONY

Senate Committee on Water and Land
Hawaii State Capitol
Room414 on Wednesday, 12 March 2008 at 1445

Chair Hee and Respected Members of the Committee:

My name is Richard Davison and I have been a licensed U.S. Merchant Marine Officer for over 20 years. I will be working on the water today and will not be able to give testimony in person.

I have done salvage work in Honolulu and Maui and it is from this perspective that I speak. Time is of the essence in salvage work and any delay increases the possibility of increased damage to our natural resources. Removing a grounded vessel depends on the tides and weather, and you may only have one shot when the weather and tides are right to remove a vessel and it would be sickening to see that opportunity wasted because of a 72 hour rule.

It is important that DNLR have the authority to act immediately if a grounded vessel's owner(s) fail to act. This bill must be modified and passed so that DLNR may remove grounded vessels before they become environmental disasters. Every hour counts in salvage work!

Please modify HB 3173 by eliminating the 72 hour delay so that this goal may be achieved and then pass this much needed bill.

Supercharge your AIM. Get the [AIM toolbar](#) for your browser.

TESTIMONY
HB 3173 HD1
LATE
(END)

TESTIMONY
HB 3176 HD1
LATE

testimony

From: JoBear55@aol.com
Sent: Wednesday, March 12, 2008 2:52 AM
To: testimony
Subject: Wednesday, March 12, 2008 TIME: 2:45 p.m. PLACE: Conference Room 414
Attachments: HB3176,HD1testimony.doc

LATE TESTIMONY

Senator Clayton Hee, Chair Committee on Water and Land
Wednesday March 12, 2008
2:45 p.m., Conference Room 414 State Capitol

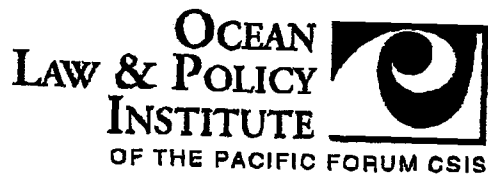
In Strong Support of HB 3176, HD1 Relating to Administrative Penalties for Damage to Stony Coral and Live Rock

I, Georgette Jordan am submitting testimony for the support of HB 3176, HD1. The protection of coral reef resources is of high importance. The fragile environment that exists within the coral reef holds an important balance in the ocean ecosystem and it needs to be protected. I strongly believe that increased fines should be put into place to deter reckless acts that could harm these environments. Therefore, I urge the committee to support HB 3176, HD1,
Thank you for the opportunity to testify.
Georgette "Jo" Jordan
Waianae Community member for 36 years

It's Tax Time! [Get tips, forms and advice on AOL Money & Finance.](#)

TESTIMONY
HB 3176 HD1
LATE
(END)

TESTIMONY
HB 2687 HD1
LATE



THE HOUSE
TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

COMMITTEE ON WATER AND LAND
Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

Wednesday, March 12, 2008
2:45 p.m., Conference Room 414, State Capitol

HOUSE BILL NO. 2687 HD1
Relating to Aquatic Resources

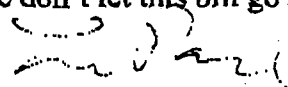
LATE TESTIMONY

Senator Hee, Senator Kokubun, members of the committee, my name is Linda Paul and I am testifying today in behalf of the Ocean Law & Policy Institute of the Pacific Forum CSIS. I am testifying against HB 2687 HD1, which is being supported by certain user groups that are not happy with the recent rules regulating bottomfishing and the use of lay gillnets.

In 1999 the Legislature mandated DLNR to take over the day-to-day management of state fisheries by giving it rule-making authority to promulgate fishery management regulations. Previously the Legislature was micro managing state fisheries, a task that was impossible for it to do since it is only in session 60 very busy days of the year. The rule-making process, as opposed to the legislative process, provides far more opportunity for public input and comment and results in rules that reflect the needs and desires of a whole spectrum of aquatic resource user groups.

It is important to understand that depending on the species, and the condition of the stock, positive results of management actions may take years to achieve. Even with a complete closure of a fishery, a stock may not recover for many years. If a stock has been depleted past the point of no return it may never recover. A good example is the lobster fishery in the Northwestern Hawaiian Islands. That fishery was closed eight years ago and still shows no signs of recovery. The success of a management measure may also be also be compromised by environmental regime change, habitat degradation, etc. In short, the failure of a fish stock to recover may have little to do with whether or not the management measure in question was the right one or not.

Since DLNR already reviews its resource management measures on a regular basis and provides the legislature with an annual report, it is difficult to understand just exactly what this bill is intended to accomplish, other than provide an excuse for certain user groups to insist that the Legislature step in and start managing fisheries again. Please don't let this bill go any further.


Linda Paul, Director
262-6859

LATE TESTIMONY

testimony

From: Linda Paul [linpaul@aloha.net]
Sent: Tuesday, March 11, 2008 3:12 PM
To: testimony
Subject: HB 2687 HD1 testimony

THE HOUSE
TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

COMMITTEE ON WATER AND LAND
Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

Wednesday, March 12, 2008
2:45 p.m., Conference Room 414, State Capitol

HOUSE BILL NO. 2687 HD1
Relating to Aquatic Resources

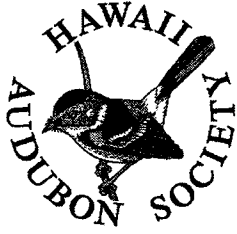
Senator Hee, Senator Kokubun, members of the committee, my name is Linda Paul and I am testifying today in behalf of the Ocean Law & Policy Institute of the Pacific Forum CSIS. I am testifying against HB 2687 HD1, which is being supported by certain user groups that are not happy with the recent rules regulating bottomfishing and the use of lay gillnets.

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262-6859



For the Protection of Hawaii's Native Wildlife

HAWAII AUDUBON SOCIETY

850 Richards Street, Suite 505, Honolulu, HI 96813-4709

Phone/Fax: (808) 528-1432; hiaudsoc@pixi.com

www.hawaii-audubon.com

LATE TESTIMONY

COMMITTEE ON WATER AND LAND

Senator Clayton Hee, Chair

Senator Russell S. Kokubun, Vice Chair

Hearing: Wednesday, March 12, 2008

2:45 p.m., Conference Room 414, State Capitol

HOUSE BILL, NO. 2687 HD1

Relating to Aquatic Resources

TESTIMONY IN OPPOSITION

Senator Hee, Senator Kokubun, members of the Committee on Water and Land, my name is George Massengale and I am submitting this testimony on behalf of the Hawaii Audubon Society, in opposition of HB 2687 HD1, which is being supported by certain user groups that are not happy with the recent rules regulating bottomfishing and the use of lay gillnets.

In 1999, the Legislature mandated DLNR to take over the day-to-day management of state fisheries by giving it rule-making authority to promulgate fishery management regulations. Previously the Legislature was micro managing state fisheries, a task that was impossible for it to do since it is only in session 60 very busy days of the year. The rule-making process, as opposed to the legislative process, provides far more opportunity for public input and comment and results in rules that reflect the needs and desires of a whole spectrum of aquatic resource user groups.

We believe that it is important to understand that depending on the species, and the condition of the stock, positive results of management actions may take years to achieve. Even with a complete closure of a fishery, a stock may not recover for many years. If a stock has been depleted past the point of no return it may never recover. A good example is the lobster fishery in the Northwestern Hawaiian Islands. That fishery was closed eight years ago and still shows no signs of recovery. The success of a management measure may also be compromised by environmental regime change, habitat degradation, etc. In short, the failure of a fish stock to recover may have little to do with whether or not the management measure in question was the right one or not.

Since DLNR already reviews its resource management measures on a regular basis and provides the legislature with an annual report, it is difficult to understand just exactly what this bill is intended to accomplish, other than provide an excuse for certain user groups to insist that the Legislature step in and start managing fisheries again.

On behalf of the Hawaii Audubon Society we would urge this committee to hold this measure.

Respectfully,

George Massengale, JD
Legislative Analyst

TESTIMONY
HB 2687 HD1
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