

NEIL ABERCROMBIE
Governor



RUSSELL S. KOKUBUN
Chairperson, Board of Agriculture

JAMES J. NAKATANI
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 Fax: (808) 973-9613

**TESTIMONY OF RUSSELL S. KOKUBUN
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEES ON AGRICULTURE AND WATER, LAND &
OCEAN RESOURCES**

**WEDNESDAY, FEBRUARY 2, 2011
8:00.M.
CONFERENCE ROOM 312**

**HOUSE BILL NO. 568
RELATING TO AQUACULTURE**

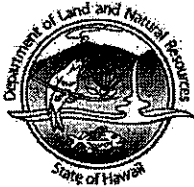
Chairpersons Nishihara and Chang and Members of the Committees:

Thank you for the opportunity to testify on House Bill No. 568 that increases aquaculture leases from 35 to 45 years and allows a maximum term of 65 years for ventures in good standing for 10 years or more. The House Bill also provides lessees in good standing the right of first refusal for the property and allows for supportive activities that are relating to aquaculture.

The Hawaii Department of Agriculture supports efforts to ensure the continuation of successful and productive aquaculture operations in Hawaii. The lengthening of the lease terms will allow the operations to solicit and secure federal funds which are critical for operational stability and the 65-year term option will make the aquaculture industry consistent with state non-agriculture park leases, which have similar terms. In addition, providing a right of first refusal will support the efforts for the next generation of farmers to continue the operation without any break in production. Finally, allowing supportive activities relating to aquaculture will assist aquaculture operations in diversifying their operations and thereby minimizing financial risk.

Thank you for your consideration of House Bill No. 568 as the Department recognizes that we must continue to support aquaculture as the State pushes toward self-sufficiency.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the House Committees on
AGRICULTURE
and
WATER, LAND & OCEAN RESOURCES

Wednesday, February 2, 2011
8:00 AM
State Capitol, Conference Room 312

In consideration of
HOUSE BILL 568
RELATING TO AQUACULTURE

House Bill 568 amends subsection (b) of Section 171-59, Hawaii Revised Statutes (HRS), to increase the maximum term for aquaculture leases from thirty-five (35) to forty-five (45) years; allows a maximum term of sixty-five (65) years for existing aquaculture operations in good standing for ten or more years"; and provides aquaculture lessees in good standing the right of first refusal. The purpose of this bill is to "encourage commercial aquaculture production in the State by providing favorable terms for leasing of public lands". The Department of Land and Natural Resources (Department) respectfully opposes this bill.

The amendments proposed by the bill affect direct negotiation leases that, pursuant to Section 171-59(b), HRS, already benefit by being exempt from the public auction process and the public participation requirement that would ordinarily be required for such leases. While this bill would provide a benefit to aquaculture operations, it does so at the expense of ensuring fair competition for the leasing of public lands by excluding other potential bidders seeking to participate in the public disposition process.

The Department acknowledges the need for long term leases in order for certain business ventures to be economically viable, however, notes that potential aquaculture lessees are in fact eligible for sixty-five year leases through the public auction process and other public processes, in addition to direct negotiation through subsection (a) of Section 171-59, HRS, which is a form of public process akin to requests for proposals.

A right of first refusal is essentially an option to extend a lease that can be exercised unilaterally by a lessee. Such options have a chilling effect on other prospective bidders' willingness to bid

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

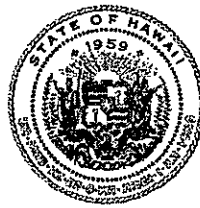
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

on the property. Many prospective bidders would be reluctant to invest the substantial time, effort and resources to prepare and submit a bid with the knowledge that the existing lessee can exercise his or her right and nullify the bid at any time. Rights of first refusal provide an unfair benefit to the current lessee by depriving persons awaiting the published termination of the lease a fair opportunity to compete for the use of those lands at public auction. That inherent inequity ensures lower bids and consequently less revenue to the State.

A right of first refusal clearly goes against all the provisions for fairness in the leasing of state land in Chapter 171, HRS, and inappropriately impinges on the Board's discretionary authority to control the use of State lands. When seeking public lands for private use, potential lessees are well aware of the benefits and drawbacks of leasing State lands as opposed to conducting their activities on private lands. First and foremost is the knowledge that those lands are public assets that must serve primarily the interests of the general public and the public trust purposes, and secondarily the needs of a private user.

The safeguards and terms for leasing public lands are codified in Chapter 171, HRS, to ensure transparency and fairness in the disposition of State assets. Paramount in that process is the need to ensure and maintain the State's ability to use its land resources when and as needed to meet all of the State's obligations and priorities as well as the greater public needs of all of Hawaii's residents. Fundamental to that responsibility is the preservation and protection of the discretionary authority of the Board of Land and Natural Resources (Board) to consider and determine the most appropriate use of State land at any given time, including when and if an ongoing use should continue. The Board's ability to fulfill its fiduciary obligations to promote all five public trust purposes equally should never be compromised by any erosion of this authority.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Department of Land and Natural Resources
Testimony Transmittal Cover Sheet**

Date Submitted: Tuesday, February 01, 2011

Testifier's Name/Title: Russell Tsuji, Land Division Administrator

**Committee Name: HOUSE COMMITTEE ON AGRICULTURE AND
WATER, LAND AND OCEAN RESOURCES (AGR-WLO)**

Day and Date: Wednesday, February 02, 2011

Time/Location: 8:00 AM, Conference Room 312

Measure Number: HB 568 – RELATING TO AQUACULTURE.

Requested Copies: 5 (including original) to Room 424 in the State Capitol.



73-4460 Queen Kaahumanu Hwy
#117 Kailua-Kona, Hawaii 96740
phone/fax: 808-329-6018
jim.wyban@gmail.com
www.SPFGenetics.com

February 1, 2011

TO: COMMITTEE ON AGRICULTURE, Rep. Clift Tsuji, Chair, Rep. Mark J. Hashem, Vice Chair and
COMMITTEE ON WATER, LAND & OCEAN RESOURCES, Rep. Jerry L. Chang, Chair, Rep. Sharon E.
Har, Vice Chair

RE: Testimony In Strong Support of HB568 - Relating to Aquaculture, Wednesday, February 2, 2010 8:00AM,
Conference Room 312

High Health Aquaculture, Inc. strongly supports HB 568 as written. HHA is a leading shrimp breeding company and tenant in good standing at NELHA since 1994. We have spent millions of dollars in Kona developing our business and employing local families. A longer term lease that is consistent with other types of State agriculture leases will give our owners a higher degree of confidence in our project and reduce their risks. HB568 is critical to our continued success. Specifics of HB568 include:

1. Increase lease terms for aquaculture which encourages investment in aquaculture infrastructure and equipment requiring long-term financing, and encourages multi-generational commitment to aquaculture farming,
2. Provides lessees in good standing the right of first refusal such that the years of financial investment in the aquaculture farming operation are not put on the auction block and potentially lost to a higher bidder who do not have the intimate knowledge of the site nor the experience gained in the aquaculture farming operation, and may not have the commitment or experience of the lessee who has already demonstrated such commitment and experience;
3. Allows additional supportive activities such as water reuse to grow additional plant products thereby improving the overall financial viability of the operation, or the generation of renewable energy, which could improve the long-term sustainability of the operation; and
4. Stimulates and diversifies our economy by encouraging increased investment in aquaculture ventures in Hawaii.

Thank you for the opportunity to testify in strong support of this important bill.

Best regards,

A handwritten signature in black ink, appearing to read "Jim Wyban".

Jim Wyban PhD
President
High Health Aquaculture Inc.
Kona Hawaii USA



EAST OAHU COUNTY FARM BUREAU

45-260 WAIKALUA ROAD S 101 KANEHOHE, HI 96744

February 1, 2011

Representative Cliff Tsuji, Chair, House Committee on Agriculture
Representative Jerry L. Chang, Chair, House Committee
on Water, Land, and Ocean Resources
State Capitol Building, 415 S. Beretania St.
Honolulu, Hawaii 96813

Dear Representatives Tsuji and Chang and Members of the Committee:

I am sending this testimony to express the strong support of the East Oahu County Farm Bureau for **HB 568, "Relating to Aquaculture."** Aquaculture is one of the largest and fastest-growing sectors of Hawaii's diversified agriculture industry. Aquaculture and aquaponics farms tend to have substantial infrastructure requirements such as wells, tanks, raceways, pipes, and support structures which in turn require a substantial investment. In order to make this investment, aquafarmers need to have access to long-term loan capital, and need to know that they will be allowed to remain in place long enough to justify not only the financial investment, but the investment of personal time, labor, and ingenuity that is necessary to succeed in a challenging endeavor.

HB 568 would increase the maximum lease terms for aquaculture and aquaponics farms, which would encourage investment in farm facilities and allow farmers greater access to Federal loan guarantees. It would allow established farms in good standing the right of first refusal, reducing the risk that farmers who have invested much of their lives in building successful businesses will see their life's labors taken away when their original leases expire. It also encourages more efficient use of resources by specifically permitting supportive activities such as the use of aquaculture effluents to produce secondary crops. We therefore support HB 568, and encourage its passage.

Thank you for the opportunity to testify.

Sincerely,

Frederick M. Mencher
for Grant Hamachi, President



Hawaii
Aquaculture &
Aquaponics Association

THE HOUSE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2011

COMMITTEE ON AGRICULTURE
Rep. Clift Tsuji, Chair
Rep. Mark Hashem, Vice Chair

COMMITTEE ON WATER, LAND, AND OCEAN RESOURCES
Rep. Jerry L. Chang, Chair
Rep. Sharon E. Har, Vice Chair

DATE: Wednesday, February 2, 2011

TIME: 8:00am

PLACE: Conference Room 312, State Capitol
415 South Beretania Street

RE: Testimony In Strong Support of HB568 Relating to Aquaculture, with requested amendments.

Aloha Chairs Tsuji and Chang, Vice Chairs Hashem and Har, and Committee Members,

The Hawaii Aquaculture and Aquaponics Association strongly supports HB568 which would encourage aquaculture production in the State by providing favorable terms for leasing of public lands. Passage of this important bill will help stimulate and diversify our economy by encouraging increased investment in land-based, coastal, and ocean aquaculture ventures in Hawaii.

However, we request your consideration of the following three amendments to the present wording.

Page 1, line 9, add: to forty years, but require applicants to have a remaining lease at least

Justification: The lease term requirement is based on the number of years REMAINING on the subject lease at the time of the loan application/approval, and loan applications may occur after the first year of the lease.

Page 1, line 10, add: --a minimum of forty-five years [.] , or, with some loan programs, require applicants to have a lease term at least fifty percent longer than the term—a minimum of sixty years.

Justification: USDA Rural Development, Rural Business and Cooperative Programs, offers loans to start or expand businesses in rural areas, for renewable energy and energy efficiency, and for farm worker housing, with the fifty percent longer than the term requirement.

Page 3, line 16, add: including aquaponics or any growing of plants or animals with aquaculture

Justification: Aquaponics is a relatively new component of the aquaculture industry whereby aquaculture effluents are reused for the growing of additional plants and animals, and in the process stripping excess nutrients from the affluent waters, thereby enabling multiple use of aquaculture effluents and multiple income sources for the aquafarm while complying with EPA and DOH discharge requirements in an environmentally appropriate and sustainable manner.

Thank you for the opportunity to testify in strong support of this important bill.

Sincerely,
Ron Weidenbach
HAAA President



**Shrimp
Improvement Systems**
Hawaii LLC

THE HOUSE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2011

COMMITTEE ON AGRICULTURE
Rep. Clift Tsuji, Chair
Rep. Mark Hashem, Vice Chair

COMMITTEE ON WATER, LAND, AND OCEAN RESOURCES
Rep. Jerry L. Chang, Chair
Rep. Sharon E. Har, Vice Chair

DATE: Wednesday, February 2, 2011

TIME: 8:00am

PLACE: Conference Room 312, State Capitol
415 South Beretania Street

RE: Testimony In Strong Support of HB568 Relating to Aquaculture, with requested amendments.

Aloha Chairs Tsuji and Chang, Vice Chairs Hashem and Har, and Committee Members,

Shrimp Improvement Systems Hawaii LLC is a Hawaii company engaged in the selective breeding and export of Specific Pathogen Free shrimp. We strongly support HB568 which would encourage aquaculture production in the State by providing favorable terms for leasing of public lands. Passage of this important bill will help stimulate and diversify our economy by encouraging increased investment in land-based, coastal, and ocean aquaculture ventures in Hawaii.

However, we request your consideration of the following three amendments to the present wording.

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Thank you for the opportunity to testify in strong support of this important bill.

Sincerely,



Joseph Tabrah
President

Hawaii Oceanic Technology, Inc.

Clean, responsible, next-generation open ocean aquaculture technologies

February 1, 2010

TO: COMMITTEE ON AGRICULTURE, Rep. Cliff Tsuji, Chair, Rep. Mark J. Hashem, Vice Chair and COMMITTEE ON WATER, LAND & OCEAN RESOURCES, Rep. Jerry L. Chang, Chair, Rep. Sharon E. Har, Vice Chair

RE: Testimony In Strong Support of HB568 - Relating to Aquaculture, Wednesday, February 2, 2010 8:00AM, Conference Room 312

Hawaii Oceanic Technology, Inc. strongly supports HB 568 as written. Hawaii Oceanic Technology, Inc. is the first open ocean ahi tuna farm to receive a State Conservation District Use permit and ocean lease for 247 acres of ocean in Hawaiian territorial waters. We anticipate spending tens of millions of dollars to build and deploy our environmentally responsible Oceansphere tuna farming systems at this lease site. A longer term lease that is consistent with other types of land based leases will give our investors a higher degree of confidence in our project and reduce risk. For this project to be sustainable and create and maintain quality jobs, export revenues and tax revenues to the state, HB568 is critical to our success. HB568 also:

1. will increase lease terms for aquaculture leases thereby encouraging investment in aquaculture infrastructure and equipment requiring long-term financing, and encourage multi-generational commitment to aquaculture farming
2. will provide lessees in good standing the right of first refusal such that the years of financial investment in the aquaculture farming operation are not put on the auction block and potentially lost to a higher bidder who would not have the intimate knowledge of the site nor the experience gained in the aquaculture farming operation, and may not have the commitment or experience of the lessee who has already demonstrated such commitment and experience;
3. will allow additional supportive aquaculture activities such as aquaponics, which would reuse aquaculture effluent water to grow additional plant products thereby improving the overall financial viability of the operation, or the generation of renewable energy, which could improve the long-term sustainability of the operation; and
4. it would help stimulate and diversify our economy by encouraging increased investment in aquaculture ventures in Hawaii.

Thank you for the opportunity to testify in strong support of this important bill.

Sincerely,

/s/

Bill Spencer, President/CEO

har3 - Megan

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 01, 2011 9:29 AM
To: WLOtestimony
Cc: bspencer@hioceanictech.com
Subject: Testimony for HB568 on 2/2/2011 8:00:00 AM
Attachments: hb568 testimony 020111.doc

Testimony for WLO/AGR 2/2/2011 8:00:00 AM HB568

Conference room: 312
Testifier position: support
Testifier will be present: No
Submitted by: Bill Spencer, CEO
Organization: Hawaii Oceanic Technology, Inc.
Address: 425 South St., #2902 Honolulu
Phone: 8082253579
E-mail: bspencer@hioceanictech.com
Submitted on: 2/1/2011

Comments:
February 1, 2010

TO: COMMITTEE ON AGRICULTURE, Rep. Clift Tsuji, Chair, Rep. Mark J. Hashem, Vice Chair and COMMITTEE ON WATER, LAND & OCEAN RESOURCES, Rep. Jerry L. Chang, Chair, Rep. Sharon E. Har, Vice Chair

RE: Testimony In Strong Support of HB568 - Relating to Aquaculture, Wednesday, February 2, 2010 8:00AM, Conference Room 312

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3. will allow additional supportive aquaculture activities such as aquaponics, which would reuse aquaculture effluent water to grow additional plant products thereby improving the overall financial viability of the operation, or the generation of renewable energy, which could improve the long-term sustainability of the operation; and

4. it would help stimulate and diversify our economy by encouraging increased investment in aquaculture ventures in Hawaii.

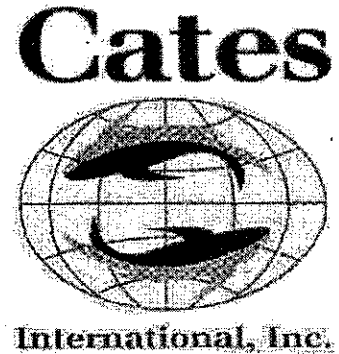
Thank you for the opportunity to testify in strong support of this important bill.

Sincerely,

/s/

Bill Spencer, President/CEO

Cates International, Inc.
P.O. Box 335
Kailua, HI 96734
Ph. 808 841-4956
Fax 808 841-4955



THE HOUSE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2011

COMMITTEE ON AGRICULTURE
Rep. Clift Tsuji, Chair
Rep. Mark Hashem, Vice Chair

COMMITTEE ON WATER, LAND, AND OCEAN RESOURCES
Rep. Jerry L. Chang, Chair
Rep. Sharon E. Har, Vice Chair

DATE: Wednesday, February 2, 2011
TIME: 8:00 am

PLACE: Conference Room 312, State Capitol
415 South Beretania Street

RE: Testimony In Strong Support of HB 568 Relating to Aquaculture, with requested amendments.

Aloha Chairs Tsuji and Chang, Vice Chairs Hashem and Har, and Committee Members,

I have been involved in Offshore Aquaculture for over a decade now, as I look forward to my future in business, and in particular in the business of Aquaculture, I see a future where in Hawaii, Aquaculture is treated with the same importance as other land based Agriculture. Many in Hawaii have little argument against a strong Ag Industry, though there seems little that our Legislatures can do to support Agriculture without the assistance of tax dollars, I believe if this bill is supported, it will one of the few things our leaders can do to create a climate of supporting the Agriculture Industry that will cost the tax payers nothing.

We all need to work together to pull through this tough economic times, and I can tell you from personal experience that the length of an aquaculture lease is THE major factor in not being able to obtain financing in the past years, and this was during the good times! I urge you to consider making the following amendments to this bill.

Page 1, line 9, add: to forty years, but require applicants to have a remaining lease at least

Page 1, line 10, add: --a minimum of forty – five years, or, with some loan programs, require applicants to have a lease term at least fifty percent longer than the term –a minimum of sixty years.

Justification: In my experience, many loans offered require at least a fifty percent longer than the term requirement, especially Government loans such as USDA Rural Development, Rural Business and NOAA Fisheries Loans.

Your support on the matter will help to make Hawaii a bit more self sufficient.

Sincerely,
Randy Cates
Cates International, Inc.

HOUSE OF REPRESENTATIVES
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2011

COMMITTEE ON AGRICULTURE
Rep. Clift Tsuji, Chair
Rep. Mark J. Hashem, Vice Chair

COMMITTEE ON WATER, LAND, & OCEAN RESOURCES
Rep. Jerry L. Chang, Chair
Rep. Sharon E. Har, Vice Chair

NOTICE OF DECISION MAKING

DATE: Wednesday February 02, 2011

TIME: 8:00 am

PLACE: Conference Room 312, State Capitol
415 South Beretania Street

RE: Testimony In Support of HB 568 - Relating to Aquaculture

Aloha,

Please accept my support to HB 568 as written for the following reasons:

1. This bill will encourage future investments and commitment by farmers who hold good record in food production by increasing the lease terms for aquaculture to 45 years.
2. This bill will encourage the following generation of a farmer with good record to continue with the family values and commitment to aquaculture and by that to help bring about future food security and food safety to the State of Hawai'i, which currently imports 90% of its seafood.
3. This bill will give the professional aquaculturists, who are lessees, the right of first refusal to make sure that their hardship and many years of financial investment in the aquaculture avoid the auction block and lost to a higher bidder, regardless her/his experience in aquaculture.
4. This bill will help encourage professional farmer to invest in new areas of aquaculture and go with the latest technology for growing food for the community in Hawai'i and by that to bring future food security and food safety to the State of Hawai'i, which currently imports 90% of its seafood.

Mahalo,

Dr. Tetsuzan Benny Ron

HOUSE OF REPRESENTATIVES

Committee on Agriculture

Rep. Clift Tsuji, Chair

Rep. Mark Hashem, Vice Chair

Committee on Water, Land and Ocean Resources

Rep. Jerry Chang, Chair

Rep. Sharon Har, Vice Chair

Date: Wednesday, February 02, 2011

Time: 8:00 am

Place: Conference Room 312

State Capitol

415 South Beretania Street

Re: Testimony in Strong Support of H.B 568, Relating to Aquaculture

Chairs Tsuji and Chang and Vice Chairs Hashem and Har and Committee Members:

My name is John Corbin. I was formerly manager of the State Aquaculture Development Program in the Department of Agriculture and have worked in the aquaculture industry in Hawaii for over 30 years. I strongly support what H.B 568 is trying to do and recommend passage.

My experience with the application of Section 171-59 HRS is land based and ocean farmers would benefit from longer lease terms; 45 years for new farmers and 65 years for existing farmers in good standing. The additional time would provide more time to grow the business and provide for more financing options, particularly federal loans. In addition, allowing complimentary activities such as aquaponics that can enhance farm profitability is consistent with the Governor's desire to encourage industries that contribute to economic development, jobs and food security. Finally, giving successful aquaculture farmers the right of first refusal to further extend their lease would promote successful farmers and farm families to stay on the land and continue to contribute to Hawaii.

In summary, I believe this is a positive bill that promotes a supportive business environment for aquaculture development, while not costing the State money in these difficult times. I strongly urge you to pass this bill. Thank you for the opportunity to testify.

John Corbin MS, CFP, AICP

47-215 Iuiu Street

Kaneohe, Hawaii 96744

Phone: 239- 8316

har3 - Megan

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 01, 2011 9:57 AM
To: WLOtestimony
Cc: jim.wyban@gmail.com
Subject: Testimony for HB568 on 2/2/2011 8:00:00 AM
Attachments: HB568 testimony.pdf

Testimony for WLO/AGR 2/2/2011 8:00:00 AM HB568

Conference room: 312
Testifier position:
Testifier will be present: No
Submitted by: Jim Wyban
Organization: Individual
Address:
Phone:
E-mail: jim.wyban@gmail.com
Submitted on: 2/1/2011

Comments: