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GOVERNOR

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KEALI'I S. LOPEZ
DIRECTOR

JO ANN UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE
ON ENERGY AND ENVIRONMENTAL PROTECTION

THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2013

TUESDAY, FEBRUARY 12, 2013
8:30 A.M.

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR, DIVISION OF
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS, TO THE HONORABLE CHRIS LEE, CHAIR,
AND MEMBERS OF THE COMMITTEE

HOUSE BILL NO. 1142 - RELATING TO RENEWABLE ENERGY

DESCRIPTION:

This measure proposes to require an electric utility company and a producer of renewable energy who enter into a power purchase agreement to contract for a maximum number of hours per calendar year that produced renewable energy can be curtailed by the utility company.

POSITION:

The Division of Consumer Advocacy supports the intent of this bill and offers the following comments.

COMMENTS:

The Consumer Advocate has been participating in the Public Utilities Commission's ("Commission") Reliability Standards Working Group ("RSWG"), which was comprised of various entities such as the Hawaii electric utilities, several

House Bill No. 1142
House Committee on Energy and Environmental Protection
Tuesday, February 12, 2013, 8:30 a.m.
Page 2

independent power producers, renewable energy associations, environmental advocates. The work efforts by the individual entities recently concluded and the next steps in the RSWG process include review by the Commission and its technical review committee.

Through the RSWG process, several measures and steps have been identified to re-evaluate the processes associated with various renewable energy procurement mechanisms, including purchase power agreements. Part of the next steps includes an assessment that these measures and steps do not increase the electricity bills for Hawaii ratepayers, as well as ensure reliable electric service.

The Consumer Advocate suggests that the Legislature's concerns and issues associated with the electric procurement mechanisms be addressed in the form of a resolution, rather than in statute as proposed in H.B. No. 1142 to allow the RSWG process to be completed.

Thank you for this opportunity to testify.

TESTIMONY OF HERMINA MORITA
CHAIR, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

FEBRUARY 12, 2013
8:30 a.m.

MEASURE: H.B. No. 1142

TITLE: Relating to Renewable Energy

Chair Lee and Members of the Committee:

DESCRIPTION:

This measure would require electric utility companies entering into power purchase agreements (“PPA”) with independent power producers (“IPP”) for renewable energy – in particular, geothermal and nonfossil fuel resources – to be compensated for excess curtailment or interruption over and above an agreed to minimum energy usage amount. H.B. No. 1142 sets out a formula to determine the amount each IPP should be compensated for in the case of any excess curtailment or interruption.

POSITION:

The Commission supports the intent of this measure to maximize the State’s use of electricity generated from renewable energy resources, but, as a general principle, believes contractual issues should not be in statute.

COMMENTS:

To better understand the many factors affecting PPA pricing, the Commission asks the Legislature to first consider the passage of S.B. No. 1043, relating to electricity producers.¹ S.B. No. 1043 would give the Commission the authority to obtain all relevant information concerning negotiated PPAs pending the Commission’s approval,

¹S.B. No. 1043 is scheduled for hearing by the Senate Committee on Commerce & Consumer Protection on Thursday, February 14, 2013 at 9:00 a.m.

including cost information, to get a complete understanding of the actual costs and pricing for renewable energy projects negotiated under a PPA. Gaining this complete understanding would help to ensure pricing and conditions are just and fair to the utility and, subsequently, the electricity ratepayer, as well as the IPP by minimizing investment risk by reducing volume uncertainty.

As a general principle, the Commission would prefer that issues affecting the economic dispatch of generating units, which includes curtailment, are addressed through existing regulatory procedures and not mandated through statute. Standardized and/or negotiated contracts and operational conditions can change very quickly as technology evolves. Statutory mandates may not allow for timely and appropriate responses and may cause inadvertent consequences with unnecessary additional costs thrust upon the ratepayer.

Recent PPAs for wind power producers have included innovative tier pricing to incentivize more use of wind. In tier pricing, the cost of electricity sold to the utility, and paid by ratepayers, decreases as the utility integrates more electricity from the IPP. The potential cost savings to be realized by accessing the lowest cost electricity from these types of projects are significant and offer benefits to all parties. With the cost differential between existing oil-fired generation and the lowest cost renewable power, utilities can justify necessary investments in the grid to reliably use this power. IPPs can earn additional revenue by increasing electricity sales, and the remaining fuel cost savings are passed on to the ratepayer.

Thank you for the opportunity to testify on this measure.

**Testimony before the
House Committee on Energy and Environmental Protection**

H.B. 1142-- Relating to Renewable Energy

**Tuesday, February 12, 2013
8:30 am, Conference Room 325**

**By Barry Nakamoto
Manager, Renewable Acquisition Department
Hawaiian Electric Company, Inc.**

Chair Lee, Vice-Chair Thielen, and Members of the Committee:

My name is Barry Nakamoto. I am the Manager of the Renewable Acquisition Department at Hawaiian Electric Company. I am testifying on behalf of Hawaiian Electric Company and its subsidiary utilities, Maui Electric Company and Hawaii Electric Light Company.

Hawaiian Electric does not support H.B. 1142 on the basis that contractual limits on curtailment should not be applied to firm dispatchable resources such as geothermal whose source energy can be controlled. The approach of setting a minimum purchase agreement on dispatchable resources may result in constraining the ability of the utility to make use of other low-cost resources or changes in relative pricing of available resources. The unintended consequence of limiting the ability of the utility to dispatch firm renewable resources, such as geothermal and biomass, could reduce the amount of energy that the utility can take from intermittent renewable sources such as wind and solar, and result in higher amounts of excess energy curtailment for those types of renewable resources.

The Hawaiian Electric Companies fully recognize the need to balance the concerns of the developers to make a reasonable profit with the needs of customers, who shouldn't be required to pay for energy that they don't use. Firm dispatchable resources, such as geothermal, have purchase power agreements that provide a capacity payment and an energy payment. The capacity payment, which is not linked to energy sales, generally covers the

facility's fixed costs. Thus, setting minimum energy purchases by the utility are not necessary for these projects that receive a capacity payment to be financially viable.

The Hawaiian Electric Companies note that the issue of contractual approaches to addressing curtailment in power purchase agreements has been the subject of extensive discussions as a part of the Commission's Reliability Standards Working Group ("RSWG"). A number of possible approaches towards addressing excess energy curtailment have been identified and are primed for further in depth evaluation and consideration by the Commission and affected stakeholders. Accordingly, the Hawaiian Electric Companies recommend that the ongoing work to address this important issue be allowed to continue under the oversight of the Commission and respectfully request that this bill be held.

Thank you for the opportunity to testify.



HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

February 12, 2013, 8:30 A.M.

Room 325

(Testimony is 2 pages long)

TESTIMONY IN STRONG SUPPORT OF HB 1142

Chair Lee and members of the Energy & Environmental Protection Committee:

The Blue Planet Foundation strongly supports HB 1142, a measure which seeks to encourage greater amounts of renewable energy use by reducing the curtailment of renewable energy sold to public utilities. This measure should also decrease the cost of renewable energy by reducing curtailment risk to independent renewable energy producers.

Curtailment of renewable energy resources is a significant barrier to Hawaii's clean energy future. Hawaii's largest electric utility company is essentially allowed to curtail renewable energy facilities without limit and without compensation. This not only directly limits the amount of renewable energy on the grid, it has a chilling effect on the ability to finance clean energy projects in Hawaii. With the threat of uncertain amounts of curtailment, developers are unable to properly evaluate financial risk. Absent reasonable certainty concerning financial risk, projects are unable to go forward. While it is difficult to eliminate all curtailment (such as curtailment necessary for reliability or technical issues), curtailment for economic reasons should be prohibited and other curtailment should be minimized.

This measure establishes reasonably certain parameters (such as maximum hours of curtailment limits and payment amounts) in power purchase agreements that allow developers and investors to properly evaluate risk and potentially move forward with financing and developing projects.

These changes are consistent with past applications before the Public Utilities Commission (PUC) involving power purchase agreements for solar PV facilities. For example, in Docket No. 2010-0307, the application includes language establishing limits and requiring the utility to provide appropriate compensation for curtailed energy¹. Pursuant to this language, the utility agrees that it shall not be entitled to curtail the solar PV facility for more than a maximum of

¹ See Application (Docket No. 2010-0307) filed Nov. 8, 2010 ("Application") at Exhibit 1, pp. 11-12.

ninety hours per calendar year. If the utility curtails the facility in excess of the maximum amount, the facility shall be entitled to receive payment for 1.25 MWhs of curtailed energy for each hour curtailed from 8:00 AM to 7:00 PM². These types of “floor” provisions on curtailment should be included in all future power purchase agreements.

With the requirement to pay for curtailed energy, system operators will likely curtail facilities more judiciously. The payment requirement will also incent utilities to further embrace curtailment mitigation measures.

Thank you for this opportunity to testify.

² Actual language from the power purchase agreement: “The Parties agree that, regardless of the basis, the Cooperative shall not be entitled to curtail the Seller’s Facility for more than a maximum 90 hours per calendar year. If and to the extent the cooperative curtails the Seller’s Facility in excess of the maximum amount set forth above or otherwise in violation of this Section 15(c), then the then the Seller shall be entitled to receive payment for 1.25 MWhs of curtailed energy for each hour (or a pro-rated amount based on 60 minutes per hour if less than an hour) curtailed from 8am - 7pm (reduced by one-half of one percent (0.5%) per year to account for annual degradation from Sellers Facility) and the Cooperative shall pay Seller for the curtailed energy in accordance with Appendix B subject to the Dispute Resolution procedures of Appendix E. For the avoidance of doubt, the Parties agree that, in practice, the actual curtailments by the Cooperative could be substantially less than the maximum 90 hours per calendar year.”

thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 10, 2013 7:09 PM
To: EEPtestimony
Cc: dannygr@hawaiiintel.net
Subject: *Submitted testimony for HB1142 on Feb 12, 2013 08:30AM*

HB1142

Submitted on: 2/10/2013

Testimony for EEP on Feb 12, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Grantham	Sierra Club Maui Group	Support	No

Comments:

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Hawaii Solar Energy Association
Serving Hawaii Since 1977

Before the House Committee on Energy and Environmental Protection
February 12, 2013, 8:30 am, Conference Room 325
HB 1142: RELATING TO RENEWABLE ENERGY

Aloha Chair Lee, Vice-Chair Thielen, and members of the Senate Committee on Energy and Environmental Protection,

On behalf of the Hawaii Solar Energy Association (HSEA), I would like to testify **in support of HB 1142** which requires a power purchase agreement between an electric utility company and a producer of renewable energy to contract for a maximum number of hours that may be curtailed in any one year. HSEA is a non-profit trade organization that has been advocating for solar energy since 1977, with an emphasis on residential distributed generation and commercial for both solar hot water (SHW) and photovoltaics (PV). We currently represent 71 companies, and our members include installers, contractors, manufacturers, distributors, the utility, and others. With 35 years of advocacy behind us, HSEA's goal is to work for a sustainable energy future for all of Hawaii.

Renewable energy is key to Hawaii's green energy future

As we all know, Hawaii is dangerously dependent upon imported fossil fuels, and the cost and uncertainty of fossil fuel availability will only increase. Recent reports have indicated that oil may reach \$180/barrel or more by 2020, and transforming our electrical grid to a green energy infrastructure will bring both added security and stability to our state's economy, and contribute to an overall reduction in greenhouse gasses for everyone.

Utility contracts should have clear curtailment limits to aid in contract negotiation

Utility scale projects contend with a variety of barriers, from long lead times for permitting to challenges finding investors. Added to these challenges is the uncertainty over the amount of curtailment an installation can expect over the life of a project. Since utility scale projects are paid on the power they produce, unexpected curtailment can wreck havoc with the project's operating expenses. This legislation reduces that uncertainty by mandating that the utility and power producer agree upon a set curtailment. These mutually agreed upon limits would give both parties the power to negotiate a contract based on more realistic goals, which would benefit the power producer, the utility, and ultimately the utility customer who would no longer pay the price of inflated costs based upon future uncertainty.

Thank you for the opportunity to testify.

Leslie Cole-Brooks
Executive Director
Hawaii Solar Energy Association



Directors

Jody Allione
AES-Solar

Joe Boivin
The Gas Company

Kelly King
Pacific Biodiesel

Warren S. Bollmeier II
WSB-Hawaii

TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE
HAWAII RENEWABLE ENERGY ALLIANCE BEFORE THE
HOUSE COMMITTEES ON ENERGY AND ENVIRONMENTAL PROTECTION, AND
AGRICULTURE

HB 1142, RELATING TO RENEWABLE ENERGY

February 12, 2013

Chairs Lee and Wooley, Vice-Chairs Thielen and Onishi, and members of the Committees, I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance (HREA). HREA is an industry-based, nonprofit corporation in Hawaii established in 1995. Our mission is to support, through education and advocacy, the use of renewables for a sustainable, energy-efficient, environmentally-friendly, economically- sound future for Hawaii. One of our goals is to support appropriate policy changes in state and local government, the Public Utilities Commission and the electric utilities to encourage increased use of renewables in Hawaii.

The purpose of HB 1142 is to require an electric utility company and a producer of renewable energy who enter into a power purchase agreement to contract for a maximum number of hours per calendar year that produced renewable energy can be curtailed by the utility company.

HREA **supports this measure** and offer the following comments:

- 1) Why Should We Consider this Measure? A number of renewable generators are getting curtailed both for emergency conditions, but also when there is excess energy on the grid. When curtailment is experienced by an Independent Power Producer ("IPP"), the IPP currently absorbs all of the risk associated with these curtailments. This puts financial stress on the IPP, and ultimately, if curtailment becomes excessive and uncompensated, the IPP could go bankrupt. Obviously, we don't want this to happen, as we want the IPPs to stay in business and we need the renewable output to meet our RPS.
- 2) What are the Potential Solutions for this Conundrum? First, as proposed in this measure, if the IPP is compensated for an amount of curtailment above a certain threshold, expressed in terms of "XY" hours per year. In this treatment, a portion of the curtailment risk is shifted to the ratepayer. Second, as alternative, the curtailment risk could be shifted from the ratepayers to the utility's shareholder. Note: both of these options were discussed in the Commission's Reliability Standards Working Group. The RSWG prepared a paper on contractual treatment options that consider the curtailment issue along with more general issue of how to improve the efficiency of all generators on the grid. However, option two did not gain consensus from the RSWG and was thus not included in the report. There were other options considered by the RSWG which we can discuss if the committee desires.
- 3) Impacts of the Proposed Measure. Given that the IPP would be compensated for energy not delivered, and the curtailment costs would be borne by the ratepayers. The question then is whether the potential impacts on the effective utility rates are reasonable given the benefit of helping ensure that the IPPs stay in business. For example, while the impact to the IPPs may be significant to the IPPs, the total cost may be a relatively small fraction of the utility's total revenue requirements.

Mahalo for this opportunity to testify.



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.538.6616 hawaii.chapter@sierraclub.org

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

February 12, 2013, 8:30 A.M.
(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF HB 1142

Aloha Chair Lee and members of the Committee:

The Sierra Club, Hawaii Chapter, with over 10,000 dues paying members and supporters statewide, respectfully *supports* HB 1142. This measure would require a utility and an independent power purchaser to negotiate in the power purchase agreement the amount of curtailment that could occur.

Uncertainty is the bane of good business transactions. When a power purchase provider is forced to guess at the amount of electricity that they may or may not be able to sell, that uncertainty is reflected in higher rates. By forcing this term to be negotiated, the power purchase provider will have certainty which, hopefully, will result in lower prices to consumers.

Moreover, it simply is good policy to place the “risk” of curtailment on the utility. Only the utility can influence the rate of curtailment through investments in smart grid technology, making existing power plants more efficient, and adjusting customer behavior. This measure would incentivize maximizing the amount of renewable energy brought onto the grid.

Mahalo for the opportunity to testify.



TESTIMONY OF JOHN CROUCH ON BEHALF OF SPSI, A RENEWABLE ENERGY
COMPANY BASED IN HAWAII, BEFORE THE
HOUSE COMMITTEE ON ENERGY, ENVIRONMENTAL PROTECTION, AND
AGRICULTURE

HB 1142, RELATING TO RENEWABLE ENERGY

February 12, 2013

Chairs, Lee and Wooley, Vice-Chairs Thielen and Onishi, and distinguished members of the Committee, my name is John Crouch. I and my two local partners have been involved in the design and installation of renewable energy projects in Hawaii since the first large unit at Mauna Lani Bay Hotel and Bungalows in 1998. We are very concerned that the position of the HECO group of utilities to refuse to negotiate any risk sharing of curtailed renewable energy other than for emergency or scheduled maintenance conditions.

The purpose of HB 1142 is to require an electric utility company and a producer of renewable energy, IPP, who enter into a power purchase agreement, PPA, to contract for a maximum number of hours per calendar year that produced renewable energy can be curtailed by the utility company.

SPSI supports this measure and offers the following comments:

- 1) In many cases, excess energy produced by wind or PV IPP has been curtailed as unacceptable to the utility at a particular time or under certain conditions. It is understandable that at certain times and under certain conditions that any given utility may not be able to accept all the energy provided to it from an IPP. The problem is, once a PPA is signed, it is expected that the utility can take all the energy projected by the IPP. Experience shows that, especially for a Wind IPP, that excess energy may be curtailed in amounts which have the potential of causing a significant lesser amount of energy being sold to the utility than originally projected. Most utility contracts are based on expected annual kWh of energy being sold to the utility in order to make it a viable contract. The PUC approval is based on the contract being at a reasonable per kWh cost to the utility and provide a lifetime savings to the rate payer. To make this happen, it is imperative that the IPP be able to at sell the amount of kWh listed in the PPA or adjusted by a pre-negotiated amount.
- 2) **SUGGESTION:** In order to provide some degree of security that an IPP is going to be able to sell the amount of kWh noted in the PPA, which is important to attracting capital, we suggest that the amount of curtailment that an IPP be assessed be limited to a percentage of the annual projection of kWh generation listed in the PPA. The reason for setting a limit on the amount of curtailment is to be able to provide a reasonable risk to the IPP that the projected amount of energy available for sale to the utility, even after impacts of curtailment, will be known at the time of PPA negotiations. This would provide a reasonable degree of security that the utility will purchase a certain amount of energy produced and the ability for the IPP to perform as projected throughout the contract period which will be a direct benefit to the rate payer in controlling the cost of electrical power.

Mahalo for the opportunity to testify.

thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 10, 2013 4:56 PM
To: EEPtestimony
Cc: redahi@hawaii.rr.com
Subject: Submitted testimony for HB1142 on Feb 12, 2013 08:30AM

HB1142

Submitted on: 2/10/2013

Testimony for EEP on Feb 12, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
B.A. McClintock	Individual	Support	No

Comments: Please support.

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thielen3 - Charles

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To: EEPtestimony
Cc: brilana@gmail.com
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HB1142

Submitted on: 2/11/2013

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Submitted By	Organization	Testifier Position	Present at Hearing
Brilana Silva	Individual	Support	No

Comments:

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thielen3 - Charles

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Cc: clk5356@gmail.com
Subject: *Submitted testimony for HB1142 on Feb 12, 2013 08:30AM*

HB1142

Submitted on: 2/10/2013

Testimony for EEP on Feb 12, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Carolyn Knoll	Individual	Support	No

Comments:

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thielen3 - Charles

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Cc: mh@interpac.net
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HB1142

Submitted on: 2/10/2013

Testimony for EEP on Feb 12, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Cory Harden	Individual	Support	No

Comments: HB 1142 would require the utility to negotiate how much curtailment (refusal to take renewable power) is allowed. When they're not sure how much power they can sell, renewable energy providers increase prices to manage risk. HB 1142 would give providers certainty and, hopefully, reduce the cost of renewable energy.

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HB1142

Submitted on: 2/10/2013

Testimony for EEP on Feb 12, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ikaika Pestana	Individual	Support	No

Comments: I support this bill because it would make the future finances of clean energy more secure and thus more affordable due to less risky financing.

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thielen3 - Charles

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HB1142

Submitted on: 2/10/2013

Testimony for EEP on Feb 12, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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HB1142

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Testimony for EEP on Feb 12, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kai Ner	Individual	Comments Only	No

Comments: Ladys and gents...could it be possible to use the -gezeitenkraftwerk- conected to a new kind of water-power-generating...in tubes on hills or "artificial hills" ...and the tubes have to be -- konisch verlaufend--...cause you get higher pressure and it will pressed through --turbinen-flügel-rad-- and generating more energy...a few words in german I've needed...:~! ...surely I can't give the hole complete concept...so if I could(+wanna) be a part in this project... Greetings to all Kai Ner <- artistname (kai wischmann)

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Subject: Submitted testimony for HB1142 on Feb 12, 2013 08:30AM

HB1142

Submitted on: 2/11/2013

Testimony for EEP on Feb 12, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mary A. Guinger	Individual	Oppose	Yes

Comments: Alternative sustainable local energy green power is preferred and Hawaii is committed to the majority of energy will be local renewable energy. Curtailment is against our goal of getting off of polluting energy.

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Cc: palmtree7@earthlink.net
Subject: *Submitted testimony for HB1142 on Feb 12, 2013 08:30AM*

HB1142

Submitted on: 2/11/2013

Testimony for EEP on Feb 12, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
janice palma-glenie	Individual	Support	No

Comments:

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