



**STATE OF HAWAII
BOARD OF EDUCATION**
P.O. BOX 2360
HONOLULU, HAWAII 96804

House Committee on Education

Representative Roy M. Takumi, Chairperson
Representative Takashi Ohno, Vice Chairperson

House Committee on Health

Representative Della Au Bellati, Chairperson
Representative Dee Morikawa, Vice Chairperson

Monday, March 11, 2013
2:00 p.m.
Hawai'i State Capitol, Room 309

Testimony of Don G. Horner, Chairperson

Testimony in SUPPORT of SB 244 SD 2, Relating to Education

Thank you for the opportunity to submit testimony. The Board of Education SUPPORTS SB 244 SD 2 but would like to express concern over the carryover provision because we want to ensure that charter schools have sufficient funding to operate effectively.

The purpose of Act 130 (2012) is to establish a solid governance structure for Hawaii's charter school system with clear lines of authority and accountability that will foster improved student outcomes. The law is guided by the hallmarks of a high-quality charter school system which include high expectations, increased flexibility and autonomy, and meaningful accountability. We believe that SB 244 SD 2 furthers these goals.

Please know that the Board understands the constraints of the Hawaii State Constitution provision, Article VII, Section 11, entitled "Lapsing of Appropriations." We do, however, want to remain cognizant, as we ask schools through this newly enacted law to improve accountability and student performance, that it is incumbent upon us to take a closer look at what schools ultimately need to be successful.

Thank you for the opportunity to provide testimony in support of SB 244 SD 2.

NEIL ABERCROMBIE
GOVERNOR



KAREN STREET
CHAIRPERSON

STATE OF HAWAII
STATE PUBLIC CHARTER SCHOOL COMMISSION
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813
Tel: 586-3775 Fax: 586-3776

FOR: SB 244 SD2 Relating to Education
DATE: Monday, March 11, 2013
TIME: 2:00 p.m.
COMMITTEE(S): House Committee on Education
ROOM: Conference Room 309
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Testimony in support of SB 244 SD2

Chair Takumi, Vice Chair Ohno, and Members of the Committee:

As the newly appointed Executive Director of the State Public Charter School Commission, I am pleased to submit this testimony in support of Senate Bill 244, Senate Draft 2.

Like companion measure HB 674 reported out by this committee, SB 244 continues the work of Act 130, passed by the Legislature last year to improve Hawaii's chartering system. The Commission is hard at work preparing to implement the changes set forth in Act 130. SB 244 incorporates improvements to the new statute, Chapter 302D, HRS, that were recommended by the National Association of Charter School Authorizers (NACSA) as reflecting best practices for ensuring charter school success and accountability.

The Commission recommends that this Committee replace the provision under Section 1 of the bill relating to carryover of funds with the provision the Committee substituted in the House bill specifying that per-pupil funding distributed to charter schools be considered expended. Charter schools must contend with certain cash flow and operational realities for which the greater flexibility afforded by the House provision is valuable. Significantly, the financial accountability framework incorporated into the proposed performance contracts that the Commission is now preparing to enter into with all of Hawaii's charter schools will provide for enhanced monitoring and transparency. This will include annual audits required by Section 2 of this bill.

The Commission believes that by enacting Act 130 and by further improving it with this legislation, Hawaii is well positioned to strengthen its charter school system.

Thank you for the opportunity to provide this testimony.



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

March 11, 2013

The Honorable Roy M. Takumi, Chair
The Honorable Takashi Ohno, Vice Chair
Honorable Members
House Committee on Education
Hawaii State Capitol, Room 332
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **Testimony on S.B. No. 244, S.D. 2, Relating to Education**

Hearing: Monday, March 11, 2013, 2:00 p.m.
State Capitol, Conference Room 309

Written Testimony From: Hawaii State Ethics Commission

Thank you for considering the Hawaii State Ethics Commission's testimony on Senate Bill No. 244, S.D. 2, Relating to Education. The Commission's comments relate to the bill's proposed amendment to HRS section 302D-12(h), relating to the definition of the term "employee." The Commission strongly supports broadening the definition of charter school "employee" in section 302D-12(h) to include "any person under an employment contract to act as the chief executive officer, chief administrative officer, executive director, or designated head of a charter school," as proposed in SB No. 244, S.D. 2.¹ The Commission takes no position with respect to the bill's changes to the governance structure for Hawaii's charter schools.

Charter school employees, currently, are subject to and must comply with the standards of conduct established in the State Ethics Code. However, employees of a private entity, including a business contracted by a charter school to provide leadership or managerial-type services for the school, are not "employees" as defined by the State Ethics Code and therefore are not required to comply with the State Ethics Code. That means, for example, someone who is employed by the charter school as its head of school must comply with the conflicts of interest provision, cannot accept certain types of gifts, and is prohibited from misusing his position to give himself or others an unwarranted benefit or advantage. If that same person was employed by a private

¹ See page 20, lines 6-13.

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The Honorable Takashi Ohno, Vice Chair
Honorable Members of the House Committee on Education
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Page 2

business under contract with the charter school to provide those services to the school, because the State Ethics Code does not apply to him, he could, for instance, accept lavish gifts from competing vendors and suppliers given to influence or reward his procurement decisions, take action with respect to matters that may financially benefit himself, and misuse his position to give others, including his friends and family, special treatment and unfair advantages.

The Commission does not believe that the head of a public agency, such as a charter school, funded primarily through public monies, should be exempt or otherwise not subject to the standards of conduct that the legislature deemed necessary to foster public confidence in state government. For that reason, the Commission strongly supports the amendment to section 302D-12(h) to include contracted employees in certain managerial positions within the definition of “employee” for purposes of section 302D-12.

Section 302D-12(f) mandates that all charter school employees shall be subject to chapter 84, which is the State Ethics Code. By amending the definition of “employee” to include the contracted employees in certain leadership positions, the Commission believes that those people will be required to follow and abide with the same standards of conduct as other charter school employees.

The Commission, however, notes that the definition of “employee” in the State Ethics Code is not amended by this bill. For that reason, the Commission likely will not have jurisdiction to enforce section 302D-12(f) with respect to those people who are employed by a non-state entity contracted by a charter school to provide leadership or managerial-type services. Enforcement of section 302D-12(f), as it applies to persons “under an employment contract to act as the chief executive officer, chief administrative officer, executive director, or designated head of a charter school” will likely be through the Department of the Attorney General.

Lastly, the Commission notes that the disqualification provision in the portion of the bill amending section 302D-3(j) is more stringent than the State Ethics Code, specifically section 84-14(a). The bill requires members of the Public Charter School Commission, if they are an employee, governing board member, vendor, contractor, agent, or representative of a charter school, to disqualify themselves from voting on or participating in matters involving their interests.²

² See, SB No. 244, SD 2, page 17, lines 8-14.

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Under the State Ethics Code, an employee cannot take official action directly affecting a business or other undertaking in which he has a substantial financial interest. In interpreting this provision, the Commission has construed the term “business or other undertaking” to be limited to private interests and not to include other governmental agencies. For that reason, generally, a state employee who serves on a state board or holds another state position is not prohibited from taking action that may directly affect his other state agency. Hence, the State Ethics Code would not prohibit a Charter School Commission member, who is employed by a public charter school or serves on a governing board, from taking official action affecting the charter school.

The Commission appreciates your consideration of its testimony relating to S.B. No. 244, S.D. 2.

Testimony SB244 SD2
House Committee on Education
March 8, 2013 Room 309 2:00pm
Support

Dear Chair Takumi and committee,

I am in support of this attempt to revise Act 130 which repealed all of HRS 302B and replaced it with 302D which represents a change in authorizers from the Charter School Review Panel to the Charter School Commission, replaces the original Detailed Implementation Plan with a bi-lateral contract, changes the schools' boards from a stakeholder make up as the Local School Board to Governing boards, and many more changes that were suggested to the Legislature from NASCA. We will be spending a few years in adapting it to Hawaii's different political, socio-economic, island make-up, single school district, state and union involvement, and general unique climate.

I am very supportive of the amendment that students can now play sports in the service area of where they reside, providing that the charter school does not have that sports program. Virtual education was approved as part of our curriculum in February 2005 by the State Board of Education. Playing sports only at our school or our complex area has been a huge problem for these student athletes because some of them live over a hundred miles away. Athletics is not only an important part of the school experience; it serves as an avenue to college education for talented scholar-athletes. With this being said, I liked the House version which included any extra-curricular or intramural program.

I am opposed to limiting charter schools to be able to carryover only a limited percent of any appropriation. I noticed that it went from 5% in earlier versions of the bill to a blank amount. Since 2008, our per pupil revenue has decreased by over 35%. In other words, we have already fallen off the fiscal cliff. If it were not for carryover funds, some of it from ARRA funds, most charter schools would not have survived the past two years. In twelve years of operations, fiscal year 2012 was the first year for our charter school to reflect a negative bottom line. Carryover funds, limited to any percentage would not have seen us through this financial downturn. Schools might have needs to reserve funds for increased enrollments or to provide more space or equipment for our students. Please don't force us into a "spend it or lose it" situation where needless spending is done like in traditional schools towards the end of the school year. We often set out reserves for building repairs or maintenance and we never know when a vehicle may need extensive repairs.

Annual audits have been required of charter schools for several years. It is not new to this legislation. Audits involve more than just the average cost of ten thousand dollars per audit. The amount of administrative and clerical time and dollars to successfully complete an audit is increasing and

schools are not funded for the cost of the mandated audits. A separate appropriation should be made to cover these costs. Charters want to be accountable and demonstrate this via audits and budget reports, but lack the layers of personnel to do it cost effectively.

Another mandate that will force charters to spend part of its education funds on is employee background checks. Holding us to the same FBI fingerprinting as incoming DOE employees will mean spending way more money on something that should be offered to us as a State agency. Charters have used a variety of background check agencies to insure that their new employees have a thorough background check. Costs increase when new employees have lived in multiple states. The service that is available to DOE schools is not available to charters, unless we place our employees on DOE payroll. Some of the charters put employees on DOE payroll, because unlike private payroll providers like Ceridan, schools have to carry the State's burden of FICA/Medicare which amounts to 7.65% of payroll. Quarterly reimbursements are made by Budget and Finance but payments are not timely. For instance, on the date of this hearing, charter schools have not received the reimbursements for FY2013 1st and 2nd quarter. This amounts to 7.65% of our payroll costs from July 1, 2012 to December 31, 2012. For charters struggling to maintain positive cash flow, this is an extreme hardship.

Section 302D-(6) gives the charter school the ability to give enrollment preference to students with disabilities, who have severe disciplinary problems, or who are at a risk of academic failure. We have a special program at our charter that serves the first subgroup. Along with this service to these at-risk populations should be an exemption to academic measurements, not the testing, but the ranking. We intake these students with the full understanding that they are on a Certificate track and not a Diploma track. We administer the HSA knowing that they most likely will test below their grade level. Even with this in mind, our program continues to be successful and prepares these students for a vocational path. With an exemption to the standard academic compliance measures, schools could develop programs that specifically address the needs of these special students.

Another omission of Act 130 which became HRS 302D is the method of calculating per pupil or per school allocations for facilities funding and support. This is a major shortfall. For years now, start-up charter schools have put forth the constitutional right to have adequate facility funding support. Three years ago, we finally made progress by having a formula based on the debt service of the department divided by the total public school enrollment serve as a basis for facility funding for charter schools. The next year, a charter school facility working task force was charged with finding methodology to replace the debt service formula. It was headed by Marcus Oshiro, House Finance Committee chair. As a result of the task force recommendations, a needs based formula replaced the debt service formula. Neither was funded because the law remained as the legislature "may" make

appropriations for facilities and other costs. SB 362 addressed this shortfall in an earlier Senate Education committee meeting but was incorporated into SB244. But the most important word in the bill “shall” as in shall make appropriations for facilities has returned to “may” when inserted into this bill. This is a major disappointment and soon may prove to become the “straw” that that led to the demise of charter education.

There are a few other issues that need fixing in the present law, but I wanted for this submittal to only speak to the most important issues. Thank you for working with charter school leaders in making charter schools an excellent choice for education in the State of Hawaii.

Thank you for this opportunity to testify.

Steve Hiramami

Director, Hawaii Academy of Arts & Science PCS

**TO: The Honorable Roy M. Takumi, Chair
House Committee on Education**

FROM: William Haft

DATE: Monday, March 11, 2013

RE: TESTIMONY IN SUPPORT OF SENATE BILL 244, SENATE DRAFT 2

Chair Takumi and Members of the Committee:

I am the Vice-President of Authorizer Development for the National Association of Charter School Authorizers (NACSA) and Director of NACSA's Transition Coordinator work on behalf of the State Public Charter School Commission (Commission). I am pleased to submit this testimony in strong support of Senate Bill 244, Senate Draft 2.

NACSA is devoted to improving public education by strengthening the policies and practices of the organizations responsible for authorizing charter schools. Quality authorizing leads to quality charter schools, and NACSA works to create expectations, relationships, practices, policy, and resources for authorizers to excel. NACSA works with local experts to create the conditions needed for quality charter schools to thrive. We push for high standards for authorizers and help to define successful authorizer practices through our *Principles & Standards for Quality Charter School Authorizing*. NACSA believes that genuine reform through charter schools occurs when authorizers adhere to three principles: maintaining high standards for schools, upholding school autonomy, and protecting student and public interests.

NACSA has been contracted by the Board of Education (BOE) pursuant to Act 131, SLH 2012, which authorized the BOE to contract for a transition coordinator to assist with the implementation of Act 130, SLH 2012, and to transition to the new charter school system.

To implement Act 130 and transition to the new charter school system, the following have been accomplished since July 2012:

- BOE appointed the Commission's inaugural members;
- BOE contracted with a transition coordinator (NACSA) to assist with the implementation of Act 130, SLH 2012;
- NACSA conducted a review of functions and developed a draft Commission staffing plan and proposed a Commission operating budget for FB 2013-2015;
- NACSA drafted the charter contract template and developed Hawaii performance frameworks (academic, financial and organizational) with drafts now circulating with the charter schools and other stakeholders to obtain feedback before Commission approval;





- NACSA drafted administrative rules which are now being reviewed;
- NACSA assisted the Commission in implementing a rigorous process to evaluate new charter school applications;
- Commission hired its first Executive Director.

With the adoption of Act 130, SLH 2012, the Hawaii charter school law has already moved from 35th in the nation to 14th based on the National Alliance for Public Charters Schools' ranking, but we believe that Senate Bill 244 includes important improvements that will further strengthen Hawaii's charter sector, including the following:

- Adds annual audit requirement: Audits are a standard assessment of financial operations for any organization and a standard requirement of charter schools across the nation. Audits are used to ensure accountability for public funds as well as to measure a school's financial viability.
- Adds criminal history checks: This amendment will provide charter schools with the same access to criminal background data that other public schools have in order to protect the health and safety of students and staff.
- Adds enrollment language: The proposed language mirrors the model charter law advocated by the National Alliance of Public Charter Schools. This enrollment language aims to ensure charter schools truly operate as public schools in their admission practices.
- Amends contract renewal process: This proposed language will allow for a renewal process that aligns with best practices.
- Makes housekeeping changes: There is much clean-up language that ensures both clarity and enforceability, including provisions that clarify conflict of interest provisions, pre-opening requirements for newly-approved charter schools, and requirements for conversion charter school applicants.

We also note that SB 244, SD2 includes a provision for charter schools to carry over funds in an unspecified amount. NACSA supports the ability for charter schools to carry over funds. In most sectors in which NACSA works, charter schools, as not-for-profit organizations, have the flexibility to carry over 100% of their funds. Like any organization that has a long term mission and commitment to the public good, the ability for charter schools to conduct long-term financial planning is critical for things like maintaining an emergency fund, saving to pay for facilities and other infrastructure investments, and planning for long-term growth. This is especially true for the majority of charter schools that build their grade structure and size gradually over time.

Thank you for the opportunity to testify on this important legislation.





HAWAII TECHNOLOGY ACADEMYSM

Hawaii Public Charter School #551

*94-810 Moloalo Street
Waipahu, Hawaii 96797
808-676-5444
808-676-5470 (Fax)*

March 11, 2013

Honorable Roy Takumi, Chair
Honorable Takashi Ohno, Vice Chair
House Committee on Education

Re: SB 244 SD2, Relating to Education – Support
Conference Room 309, 2 p.m.

Aloha Chair Takumi, Vice Chair Ohno and Committee Members:

On behalf of the Hawaii Technology Academy (HTA), a public charter school serving students on Oahu, Kauai, Hawaii Island, and Maui, we appreciate the opportunity to testify in support of this bill.

HTA strongly supports the changes proposed in Section 15 of this bill that clarifies that students enrolled at charter schools whose curriculum incorporates virtual education have the same opportunity to participate in athletics as is provided to students at other public schools. There are innumerable examples of how participation in extra curricular activities benefits students in the classroom. HTA is committed to fostering the development of students both inside and outside of their traditional learning environments.

HTA appreciates all the work that has been put into recasting a strong foundation for Hawaii's public charter schools; however, we continue to have serious concerns regarding the chasm in funding for public charter school students which has declined significantly since Fiscal Year 2007 by 34.5% from \$9,063 to \$5,933 for FY 2013, which is why we also support the changes to establish facilities funding for schools. Studies and audits confirm it costs about the same to provide an online and/or blended learning public school education as it does for a traditional public school education. Online public schools may have less overhead costs than traditional schools but spend significantly more on courses and assessments, learning management systems, technology and instructional materials. Therefore, in order to improve and maintain improvements to student's educational outcomes, adequate funding is needed for all public charter schools.

The changes contained in this bill are steps in the right direction because children attending a public charter school should not be deprived of the same extra-curricular opportunities or funding provided for children attending a traditional public school.

We appreciate the opportunity to provide testimony on this matter.

Sincerely,

Leigh Fitzgerald
Executive Director
Hawaii Technology Academy



KAMEHAMEHA SCHOOLS®

House of Representatives
Twenty-Seventh Legislature, 2013
State of Hawai'i

March 11, 2013

TO: Honorable Roy Takumi, Chair
Honorable Takashi Ohno, Vice Chair
Members of the Committee on Education

DATE: Monday, March 11, 2013

TIME: 2:00 PM

PLACE: Conference Room 309
Hawai'i State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

FROM: Kamehameha Schools

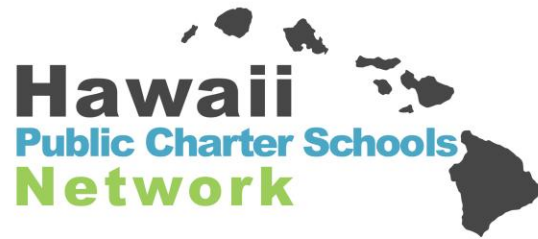
RE: SENATE BILL 244, SENATE DRAFT 2, RELATING TO EDUCATION

Chair Takumi, Vice Chair Ohno and members of the Committee,

My name is Wai'ale'ale Sarsona and I am the director of Kamehameha Schools' charter school support department, Ho'olako Like. Thank you for this opportunity to provide comments on Senate Bill 244, Senate Draft 2, relating to education.

SB 244, SD2, attempts to establish fiscal hold over limits. The charter school system is intended to be a flexible alternative to the conventional public and private schools. As a result, each charter school maintains a unique educational model that supports a variety of learning abilities and styles. These variations are just one of the reasons charter schools are so valuable in providing new and innovative ideas for broader education policy. Overly strict limitations on flexibility may limit schools' room for sustainability.

Kamehameha Schools' applauds the efforts of the Legislature to improve Hawaii's charter school system. Kamehameha Schools has been a collaborator with Hawaii public charter schools for over a decade and recognizes the ability of public charter schools to cultivate environments where culture-based education thrives. Our work with the public charter school system is focused on the areas of strategic, operational and instructional excellence. This also includes supporting charter schools through Western Association of Schools and Colleges (WASC) Accreditation. We believe that efforts to improve the public charter school system improve access to education and ultimately enhance the academic achievement of Hawaii's children.



Hawaii State Senate
Committee on Ways and Means

DATE: Monday, March 11, 2013

TIME: 2:00 p.m.

PLACE: Conference Room 309, Hawaii State Capitol

Chair Takumi, Vice Chair Ohno and Members of the Education Committee,

Re: SB244 SD2 – Testimony in Support

Hawaii Public Charter Schools Network (HPCSN) is committed to quality education for all public school students in Hawaii through our work with Hawaii's public charter schools. HPCSN in partnership with our member schools, Commission, CSAO, BOE and NACSA, have been hard at work implementing Act 130 of the 2012 legislative session. This has been no easy feat, but certainly an opportunity to put into place fair and consistent "rules of the game" for oversight, monitoring and governance.

Charter schools; carryover of funds

The Bilateral Contracts between the charters and the State Public Charter School Commission (PCSC) are currently being negotiated and this language may not allow schools to reach a few of the proposed Financial Performance Framework's "meets standards" indicators for the contract. These indicators were drafted with the intent to measure a school's financial health and stability. This ___% carryover restriction may make it extremely difficult to achieve these standards and more importantly achieve financial health and stability for our independent public charter schools.

The essence of a charter school is to allow for maximum flexibility and decision making of a charter school's governing board to plan, budget and spend. This language will make it difficult for schools to plan for needs such as a change in location of the school or other large cost items by saving for them in advance.

There is also a concern that the ___% may not allow a school to meet its monthly obligations, including payroll, between the end of the fiscal year and before the school receives its first per pupil allocation in the following fiscal year. One month or 1/12 of a school's budget equals 8%.

302D-A Annual audit

Charter schools currently conduct annual independent financial audits. HPCSN understands the importance of a financial audit. Financial audits can run \$10-15k per year, a sizable cost for schools. The previous authorizer, the Charter School Review Panel, had discussed ways to help ease the financial burden of schools that consistently performed well on their audits. Please consider language that would permit the Commission to allow a school, under certain circumstances, to do a less costly financial review every other year, two or three years instead of an audit.

Facilities Support

HPCSN strongly supports and appreciates the facilities support language that is included in this draft of the bill.

In conclusion, the Hawaii public charter sector is going through a major transition and for the most part our schools are making every effort to engage and make this an opportunity for, instead of a detriment to, our charter schools. HPCSN applauds these efforts. **Charter schools are under tremendous pressure to achieve more with less funding.** As we continue this tedious and time-consuming work, on behalf of charter schools, we appreciate the efforts that are being made to improve Hawaii's charter school law.

Thank you for your support of Hawaii's public charter schools.

A handwritten signature in black ink, appearing to read 'Lynn Finnegan', with a long horizontal stroke extending to the right.

Lynn Finnegan
Executive Director

COMMITTEE ON EDUCATION

Rep. Roy M. Takumi, Chair
Rep. Takashi Ohno, Vice Chair

Testimony on SB244 SD2
(SSCR729)

March 11, 2013 Room 309 2:00pm
Support

Dear Chair Takumi and committee,

We as parents of a first grader in charter school HAAS we in support of this attempt to revise Act 130 which repealed all of HRS 302B and replaced it with 302D. We are very concerned with the current laws lack of equal access to funding for education for all of our children in Hawaii. All children should receive the same funding. Currently our child does not receive funding for facilities as a traditional DOE child does. Is this legal? Additionally our child receives less funding per student then a DOE student, is this a violation of Equal Protection, or a Civil Rights Violation by creating a "SUBCLASS" of students in the public education arena?

HAAS has suffered a decrease in funding of 35% since 2008. We support carryover funds greater than 5% as this would not allow the school to stay afloat with the reduced funding targeted at charter school children.

Charter school children receive now funding for facilities and thus the change in this bill allows further discrimination against children that are enrolled in a charter school as other funding for curriculum has to be used to pay for classrooms and utilities.

If the bill wants annual audits, pay for them. Please appropriate money for such audits rather than forcing children to pay for them out of their curriculum budget.

Of course we as parents want background checks on staff, educators, and volunteers. Again please fund it and do not steal it from our child's educational budget.

Please return this bill to the appropriate language of "shall" in regards to facility funding.

Concerned Voting Parents

Mr. and Mrs Albright
200 Kanoelehua Ave.
Hilo, HI 96720

Jenna Takenouchi

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 11, 2013 7:29 AM
To: EDNtestimony
Cc: stoneflower_8@hotmail.com
Subject: *Submitted testimony for SB244 on Mar 11, 2013 14:00PM*

SB244

Submitted on: 3/11/2013

Testimony for EDN on Mar 11, 2013 14:00PM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Laura Raye	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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