

Maile Medeiros David
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Council District 6
(Portion N. S. Kona/Ka'ū/Volcano)



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HAWAI'I COUNTY COUNCIL

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February 22, 2022

Honorable Rosalyn H. Baker, Chair
Honorable Stanley Chang, Vice Chair
Committee on Commerce and Consumer Protection
Via Videoconference

Re: S.B. No. 2888 – Relating to Economic Development

Honorable Chair Baker and Vice Chair Chang:

On behalf of myself and as Councilmember representing the rural districts of South Kona, Ka'ū and Volcano Village (Council District 6), I express my strong support of SB 2888 relating to economic development.

As you may know, many of the Ka'ū residents face cultural, financial, and geographical barriers that prevent them from accessing health services in rural areas in my Council Districts of South Kona, Ka'ū, and portions of Volcano Village. Having a Hawai'i Health Services Corporation convene a task force to facilitate improved, mission-driven hiring and training of culturally-accepted educational materials on prevention and care to assist the non-English speaking population in these diverse and undeserved communities is much needed.

Mahalo a nui loa for your favorable consideration.

Very truly yours,

Maile David

Maile David, Council Member
Council District 6, S. Kona, Ka'ū, and Volcano Village



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February 23, 2022

HEARING BEFORE THE
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TESTIMONY ON SB 2888
RELATING TO ECONOMIC DEVELOPMENT

Conference Room 229 & Videoconference
9:30 AM

Aloha Chair Baker, Vice-Chair Chang, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau supports the intent of SB 2888, which establishes the Access to Local Food Act to allow cottage food operations to sell cottage food products, under certain conditions, upon receiving a permit from the Department of Health.

As expenses rise, increases in farm revenues and profits are critical to the continued viability of farms and ranches. One way farmers can do this is by "adding value" to raw agricultural crops. Currently, off-grade and excess production is sometimes wasted due to market conditions. Converting them into value-added products will not only increase farm revenue but also provide new business opportunities, increase employment opportunities and address Hawaii's goals of increased self-sufficiency and sustainability.

The Access to Local Food Act can provide benefits to our local agricultural sector by encouraging farmers to diversify their farming operations to incorporate value-added products as another avenue for revenue as well as increase sales of locally grown products to Cottage Food businesses. Communities will also benefit from greater access to locally produced foods.

We are concerned that potentially hazardous cottage food products are included as part of the Access to Local Food Act. We support non-potentially hazardous cottage food products as part of the Local Food Acts and defer to the Department of Health regarding potentially hazardous cottage food products.

Thank you for this opportunity to testify on this important subject.

SB-2888-SD-1

Submitted on: 2/22/2022 2:27:16 AM

Testimony for CPN on 2/23/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jane Tai	Testifying for Hawaiian Goodness	Support	No

Comments:

Dear Senator Baker,

I would also like to submit testimony in support of SB2888 as a small business owner, Hawaiian Goodness, LLC. I had submitted testimony in support of SB2888 and had sent your office an email request for hearing as well as support as an officer of Hawaii Master Food Preservers.

I started Hawaiian Goodness in 2015 soon after I received my Hawaii Master Food Preservers Certificate. I sell dehydrated fruits and fruit roll-ups using locally grown fruits to make these value-added goodies. When I applied for permits at our Department of Health, each time, the permit was approved with “non-potentially hazardous” and allowed me to market my products at indicated venues for 30 dates. I applied for 2 years continuously until I was told by the Department of Health that I did not need a permit since my products were classified as “non-potentially hazardous”. Why I wasn’t told sooner, I was unclear.

During those 2 years, I was asked by many of my customers whether I could send them products once they left the island or if they can find my products at retail stores. I have been asked by chefs from our hotels as well as other local businesses (chocolatiers) to supply them with my products. As I am a “home” kitchen, under the current Cottage food production laws, I am only able to sell “direct” to consumers. To take the next step of placing them in retail stores or become a supplier, I would have to rent a “certified” kitchen to cut, make, and package the dehydrated fruits and roll-ups. To build the business became impossible then.

A “certified” kitchen rents at approximately \$30/hour. Dehydrated fruits average 10-16 hours of dehydration time to ensure the product is food safe. A 12-tray dehydrator can only process 20lbs of sliced apple bananas at one time. My yield of dried apple bananas from the 20lbs would only be 20 ounces but it would cost \$300 for machine time alone. At \$15 for 1 ounce of dried apple banana, it was cost prohibitive. I explored producing local premium products such as dried dragon fruit, lychee or jackfruit as well as any fruit roll-up and the cost calculations were not any better.

My passion for bringing “pure” dehydrated products to residents and visitors alike has not waned. I use no preservatives, no added sugar in my dehydrated fruits as I feel that our Hawaiian fruits are special and I want to showcase them as is. Mangoes, papayas, pineapples, jackfruit, jaboticaba, Surinam cherry, lychee, rambutan, longan – outside of Asia, no other State grows all

of these other than Hawaii. I test all my products to ensure they are food safe using both a hygrometer and water activity meter. I take pride in saying that I use locally grown produce from our farmers and that everything is “made in Hawaii.” Seven years later, I am still a small business owner selling only at Farmers Markets. I would love to grow the company, I would like to support our agricultural economy in a larger way and I believe the changes in SB 2888 would enable Hawaiian Goodness and other local entrepreneurs to do so.

Thank you for the opportunity and I hope you will support this initiative.

Regards,

Jane Tai, Hawaiian Goodness, LLC



February 23, 2022

9:30 a.m.

Conference Room 229 & Videoconference

To: Senate Committee on Commerce and Consumer Protection

Senator Rosalyn H. Baker, Chair

Senator Stanley Chang, Vice Chair

From: Grassroot Institute of Hawaii

Joe Kent, Executive Vice President

RE: SB2888 SD1 — RELATING TO ECONOMIC DEVELOPMENT

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [SB2888](#), which would establish the Access to Local Food Act, thereby empowering Hawaii's cottage food operations to sell locally produced cottage food.

We commend the Legislature for examining ways in which to reduce unnecessary regulation and provide new opportunities for local businesses.

In the institute's "[Road map to prosperity](#)," our report on strategies to rebuild the state's economy following the COVID-19 emergency and lockdowns, we emphasized the importance of implementing regulatory reforms that would help local businesses innovate, explore different products and services and reach new customers.

One of the recommendations offered was that the Legislature "remove county zoning and licensing restrictions on home-based businesses and state restrictions on cottage foods."

It said, “The simplest approach would be to enact statewide legislation that protects home-based businesses that are compatible with residential use, secondary to residential use, and do not adversely impact the community.”

The reforms envisioned in this bill are exactly the kind of reforms that we recommended in that report.

So, yes, it is possible to promote the growth of a cottage food industry in Hawaii without risk to public health or safety, which is what this bill would ensure by requiring a permit from the state Department of Health.

In short, SB2888 would be a good step toward encouraging economic growth and helping small businesses.

Thank you for the opportunity to submit our comments.

Sincerely,

Joe Kent
Executive Vice President
Grassroot Institute of Hawaii

SB-2888-SD-1

Submitted on: 2/22/2022 8:49:36 AM

Testimony for CPN on 2/23/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Drean Barley	Testifying for Every One Grows	Support	No

Comments:

I'm a famrer in the north hilo district of the big isalnd and act in full support of SB2888. This will help farmers, producers and the community that we work and live in. Directly producing more food products in the north hilo district gives everyone a solid footing to reduce shipping, supply chain disruptions, fresher and safer commodities. From the time of harvesting, through processing and distribution is a few days, not a few months. Please adopt this measure and pass SB2888.

Drean Barley

Every One Grows farm, Ninole, HI 96773



LATE

Senate Committees on Commerce and Consumer Protection

Hawai'i Alliance for Progressive Action (HAPA) Supports: SB2888 SD1

Wednesday, February 13rd, 2022 9:30 a.m. Conference Room 229

Aloha Chair Baker, Vice Chair Chang and Members of the Committee,

On behalf of the Hawai'i Alliance for Progressive Action (HAPA) I am submitting the following testimony in support of SB2888 SD1.

SB2888 SD1 would Establish the Access to Local Food Act to allow cottage food operations to sell cottage food products, under certain conditions, upon receiving a permit from the Department of Health. This would greatly expand our local food industry and support small food producers.

Cottage food bills such as SB2888 SD1 grow local sustainable economies. Bills such as these allow small-scale producers to use non-licensed kitchens to process and sell certain food products. Allowing for processing in-home can take advantage of resources already in place and allow food entrepreneurs to test out techniques and products before making a large financial commitment. To date, cottage food legislation has passed in over 40 states¹.

State laws require all food producers to process foods in licensed commercial kitchens, regardless of the type of food or size of business. The primary purpose of such regulation is to decrease the public's risk of foodborne illness. This is fine for the typical high-revenue, established business, but it can create a substantial obstacle for small processors just getting started. Licensed commercial kitchens can be prohibitively expensive to construct. Although renting time in a kitchen is an option for some producers, it can also be limiting due to cost or lack of availability. This creates a high barrier to entry for food entrepreneurs trying to enter into the marketplace.

Please pass SB2888 SD1 with a reasonable start date to provide support to our small producers as soon as possible.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read 'Anne Frederick', is placed above the printed name.

Anne Frederick, Executive Director

¹ <https://socapglobal.com/2015/07/cottage-food-laws-are-growing-local-sustainable-economies/>

SB-2888-SD-1

Submitted on: 2/22/2022 4:47:35 AM

Testimony for CPN on 2/23/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Raven Hanna	Individual	Support	No

Comments:

Aloha kākou,

I am delighted to see this bill. It is long overdue and makes so much sense to shoppers, sellers, and the future of state-wide food security.

This bill will affect me as a shopper. I prefer to buy food directly from the growers and producers. Farmers have trouble making a living, and value added products such as pickles go a long way to help by extending a harvest and increasing profits. Commercial kitchen space can be prohibitive both due to availability and cost. I want to buy the healthy food my neighbors grow and make.

This bill will also affect me as a producer. I grow produce and make jams and jellies at home now. Being able to sell them through more venues and the potential of making other preserved produce to sell makes growing extra food a more attractive pursuit.

I know I am representative of many of my neighbors. This bill will allow us to grow, produce, and buy more food locally, supporting our farmers, our local economies, and our state's food security.

I urge you to make this change!

Mahalo,

Raven Hanna, PhD

Hawai'i Master Food Preserver, Hawai'i Master Gardener, and Hakalau Farmers Market Volunteer



INSTITUTE FOR JUSTICE

Testimony in Support of Senate Bill 2888

Meagan Forbes
Institute for Justice

February 22, 2022

Dear Chair Baker and Members of the Senate Committee on Commerce and Consumer Protection:

Thank you for the opportunity to submit written testimony in support of Senate Bill 2888. I am an attorney at the Institute for Justice. We are a nonprofit organization that works to protect civil liberties. We have helped cottage food producers across the country reform restrictive laws that prevent them from earning a living. We support this bill because it will expand economic opportunity while increasing access to local food. It will also be especially helpful as the people of Hawaii recover from the pandemic.

Cottage food businesses are a way for people with big dreams but little capital to start small in their own homes without having to spend thousands of dollars on professional equipment and commercial kitchen space. Nearly every state across the country recognizes these businesses as job creators and revenue generators, but Hawaii's regulatory approach is pushing this business model out of reach for many in the state.

At the Institute for Justice, we have studied the effects of cottage food businesses on local economies and communities and researched food safety. We have consulted experts, reviewed CDC data, and followed up with health departments in states that have expanded their cottage food laws in ways that are similar to the approach this bill takes. **Our research confirms that cottage food is inherently safe for producers and consumers and that cottage food businesses help bolster local economies and stimulate economic growth in their communities.**¹

This bill brings much needed reform for the state's cottage food producers. Unlike the majority of states that have cottage food laws, Hawaii's current regulatory framework has been set by rule, and these rules are quite restrictive compared to the laws in other states. This bill strikes the right balance between expanding economic opportunity for cottage food producers and protecting food safety. It ensures cottage food producers receive food safety training specific to the types of food they sell and broadens the varieties of food that can be sold and where producers can sell them. Lastly, it ensures that consumers have the information they need to make informed decisions about whether to purchase and consume cottage food.

¹ Jeffrey K. O'Hara, Marcelo Castillo, Dawn Thilmann McFadden, Do Cottage Food Laws Reduce Barriers to Entry for Food Manufacturers?, Applied Economic Perspectives and Policy (2020), volume 00, number 00, pp. 1-17, <https://foodsystems.colostate.edu/wp-content/uploads/2020/07/aepp.13047.pdf>.



INSTITUTE FOR JUSTICE

Five states—Montana, North Dakota, Oklahoma, Utah, and Wyoming—have enacted similar laws to support the local production of homemade food and to give cottage food producers and consumers the greatest ability to sell and buy the homemade food of their choice. In Wyoming, the state has broadly allowed a wide variety of cottage food sales for several years, and to date there have been no reported outbreaks of foodborne illness related to cottage food in the state.² Wyoming’s law has received national recognition for safely increasing access to local food and opportunity.³

In conclusion, this bill pragmatically expands opportunities for cottage food producers and consumers without compromising food safety. We encourage the committee to support these important reforms.

Sincerely,

Meagan Forbes
Legislative Counsel
Institute for Justice
Email: mforbes@ij.org

² There have also been no reported outbreaks of foodborne illness in Utah and North Dakota.

³ CBS This Morning, State law makes locally-sourced food more accessible than ever for Wyoming residents, Aug. 15, 2020, <https://youtu.be/iQnI8iuy2XE>.

SB-2888-SD-1

Submitted on: 2/22/2022 5:47:54 AM

Testimony for CPN on 2/23/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Rourk Reagan	Individual	Support	No

Comments:

Dear Committee Members,

My name is Rourk Reagan your and I am owner of Pukana La Farms in Wai’ohinu, on the Big Island. I would appreciate your to support and request a hearing for the Senate Committee for CPN on SB2888_SD1 Relating to Economic Development; Access to Local Food Act; and Cottage Food Operations.

I specialize in homemade jams made from our local fruits that I and other farmers here on the Big Island grow. I am glad that I currently can cook jam at home. However, for me to grow my business and make a decent living (I am struggling to get by right now) I need to sell online and wholesale to local stores like the coffee shop down the street. I am prohibited on doing that with the current guidelines for cottage industry. Likewise, I am only allowed to do Jams and I would like to expand into BBQ sauces and relishes. I am currently working on getting my application approved to use a commercial kitchen from the Health Dept.. This approval process is lengthy, costing me an initial \$1500.- for lab testing and currently an additional \$617./ a month for time testing for only 8 of my 30 flavors. Then I will be required to use a commercial kitchen that will cost about \$20. An hou, and then only be able to make those 8 flavors. I would love to be able to hire someone and grow my business, however these costs will be prohibitive.

1. safety is a top priority for people in the cottage food industry. If someone got sick form my product, I would feel terrible, and it would also ruin my business. I have taken a course Hawaii Master Preservers (HMFP) that teaches the science and art of preserving locally grown foods and I have a certificate from them. I have my Hawaii State Food Handlers license. I am glad that this bill addresses concerns for food safety and created a path for people who make food products from home that is safe .

Thank you for your consideration and helping small business owners.

Sincerely,

Rourk Reagan

808-494-6959

SB-2888-SD-1

Submitted on: 2/22/2022 6:51:41 AM

Testimony for CPN on 2/23/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kris Bordessa	Individual	Support	No

Comments:

The passage of SB2888_SD1 will allow Hawai'i's cottage industry to grow and thrive, thus improving our efforts at a more sustainable food system. Enabling small scale food producers to create products using local fruits and vegetables more easily is another avenue we can take to support local agriculture and farming.

Hawai'i needs to do everything it can to support the production of local food; this is another step to take.

Thank you,

Kris Bordessa

February 22, 2022

To Whom it Concerns,

Hawaii being an island in the middle of the Pacific ocean would benefit from supporting local production of food. Along with selling fresh produce growers need an avenue to sell their produce as a value enhanced product. Requiring testing of their products to guarantee that they are safe for the consumer will allow cottage industries to expand. Small changes to the laws with greatly increase the amount of growers and small cottage industries that can sell their value added locally grown produce. Laws need to change to adapt to the circumstances of Hawaii residents and farmers. The ability of Hawaii to be more self sufficient in food production will require that food they sell be expanded to include other avenues besides direct to consumer. When value added products are only sold directly to consumer the available marketing of their products is severely limited. Please support bill SB2888_SD1.

I am a Naturopathic physician that has been growing my own food and preserving it for my family and friends since a child. I attended the Hawaii Master Food Preservation Course in 2021 to learn about the special parameters for food preservation of Hawaii. I learned that because of our water catchment system I am not a candidate to have a cottage industry on our land. We have four filters on our water system before it reaches our kitchen. I believe that our water is safe for producing health food to be sold. The changes to Hawaii laws will be needed to make cottage food industries a viable option for our community.

Please support SB2888_SD1 and expand cottage industries in our state.

In Health & Prosperity,
Joanne Jenner ND

SB-2888-SD-1

Submitted on: 2/22/2022 7:49:03 AM

Testimony for CPN on 2/23/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Marjorie Bonar	Individual	Support	No

Comments:

Aloha Mai,

As an academic botanist, grower and home canner, I have completed the Master Food Preserver certification. At the time, I thought I had little, except "tricks" to learn. I was wrong. The nuances, if not cautious approach to ensuring food safety opened my eyes to how important some small steps are to ensuring that no one will become ill from eating from the vast number of canned jams, sauces and any product that my 2 acres can provide raw materials for. While I personally do not sell, I do buy locally produced value added products.

It is not the kitchen which is important. It is the education of the producer and their adherence to accepted cleanliness, pH and temperature criteria.

Please expand the range of products acceptable for home producers to sell and the means by which they may do so.



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Executive Officers

Charlie Gustafson, Tamura Super Market, *Chair*
Eddie Asato, Pint Size Hawaii, *Vice Chair*
Gary Okimoto, Safeway, *Secretary/Treas.*
Lauren Zirbel, HFIA, *Executive Director*
John Schliff, Rainbow Sales and Marketing, *Advisor*
Stan Brown, Acosta Sales & Marketing, *Advisor*
Paul Kosasa, ABC Stores, *Advisor*
Derek Kurisu, KTA Superstores, *Advisor*
Toby Taniguchi, KTA Superstores, *Advisor*
Joe Carter, Coca-Cola Bottling of Hawaii, *Immediate Past Chair*

TO: Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

LATE

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: February 23, 2022
TIME: 9:30am
PLACE: Via Videoconference

RE: SB2888 SD1 Relating to Economic Development

Position: Support

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

HFIA is in support of this measure to allow cottage food operations to sell cottage food products, under certain conditions, upon receiving a permit from the Department of Health. Food manufacturing is an area with great potential for growth in our state. We believe that the state should encourage innovation and entrepreneurship in this area. Allowing cottage foods to be safely made and sold to customers is a way to help the next generation of Hawaii food manufacturers get their start. This bill is a step in the right direction. We urge the Committee to vote yes on this measure and we thank you for the opportunity to testify.

LATE

Testimony in Support of Senate Bill 2888

Sally Stewart

92-1824 Keaka Parkway, Ocean View, HI 96737

February 22, 2022

Dear Chair Baker and Members of the Senate Committee on
Commerce and Consumer Protection:

Thank you for the opportunity to submit testimony in support of SB2888. I am the owner of Sally Jane's Sweets and Savories, a cottage food bakery I started in September of 2020. I am based on the Big Island, and I vend at two regular local markets, occasional specialty events, and I provide custom cakes and desserts for family celebrations. I often receive requests to make desserts such as cream pies, cheesecakes other items that, under current regulation, are prohibited. I would love to expand the things that I can offer and to grow my business, but renting commercial kitchen space, with their prohibitively high costs, is not feasible. This bill would enable me to do so, while keeping the health and safety of the consumer to the forefront.

My goal is to provide the best tasting, fresh and local baked goods that are safely prepared and presented. I take care and pride in the quality of my goods, holding them to a high standard. Safety is paramount - I would never want to be responsible for making anyone ill. I'm using the kitchen from which I feed myself and my family. Just as I wouldn't knowingly endanger us, I wouldn't endanger the health and wellbeing of my customers.

I have the required Hawaii State Food Handlers certification, and I feel that the additional measures included in this bill increase consumer safety and confidence in home-based food businesses. The permit requirement in this bill would make it easier for market managers and consumers to ensure their vendors are complying with food safety requirements, and

possibly gather in those who are flying under the radar, providing them with safe food handling training they may not currently have.

This bill ensures the health and safety of residents and visitors, while allowing economic freedom and growth for home-based businesses, which are an integral part of Hawaii's economy. I urge you to support SB2888.

Sincerely,

Sally Stewart
808-339-3328
sally.w.stewart@gmail.com

LATE

**TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION TO
SB 2888**

Date: Wednesday, February 23, 2022

Time: 9:30 a.m.

My name is Evan Oue and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in **OPPOSITION** to SB 2888, Relating to Economic Development. HAJ's primary concern is the immunity which is granted to the state for any claim arising from food products from cottage food operations.

SB 2888 establishes the Access to Local Food Act to allow cottage food operations to sell cottage food products, under certain conditions, upon receiving a permit from the Department of Health. Specifically, Section 328-J on Page 12, line 13-18 contains a Limitation of state liability which states "[t]he State and counties shall not be liable for claims associated with cottage food products distributed, delivered, or sold by cottage food operations, cottage food operators, or sellers, except for instances of gross negligence and intentional misconduct by the State or counties."

This language is overbroad and unnecessary in granting the State immunity from food products from cottage food operations. The State Tort Liability Act states that the State "hereby waives its immunity for liability for the torts of its employees and shall be liable in the same manner and to the same extent as a private individual under like circumstances but shall not be liable for interest prior to judgment or for punitive damages." HRS § 662-2. In granting the State immunity from ordinary negligence, SB 2888 contradicts the State Tort Liability Act.

It is unlikely that there will often be cases in which the State or its employees' negligence would give rise to an actionable claim. Therefore, cases regarding the State's negligence in the distribution of cottage food products would pose very little monetary risk to the State. There's no need for further limitations on liability arising from cottage food products and the State should preserve individual's rights to seek recourse for negligence.

If, for example, the State or counties receive a complaint about food poisoning from or contamination of one of these cottage food products and does nothing to stop the sale, the State would be immune from negligence. Further, if someone thereafter gets sick, the injured individual would have no recourse against the State even though the State knew and could have prevented the sale because such conduct would not amount to gross negligence or intentional misconduct.

For these reasons we oppose this measure and respectfully recommend that Section 328-J on Page 12, line 13-18 be deleted. Thank you for allowing us to testify regarding this measure. Please feel free to contact us should you have any questions or desire additional information.

LATE

SB-2888-SD-1

Submitted on: 2/22/2022 3:52:02 PM

Testimony for CPN on 2/23/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lisa DeSantis	Individual	Support	No

Comments:

I support SB 2888.