

TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-EIGHTH LEGISLATURE, 2016

ON THE FOLLOWING MEASURE:

S.B. NO. 2523, S.D. 1, RELATING TO MEDICAL MARIJUANA.

BEFORE THE:

HOUSE COMMITTEES ON HEALTH AND ON JUDICIARY

DATE: Wednesday, March 23, 2016

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Tara K.C.S. Molnar, Deputy Attorney General

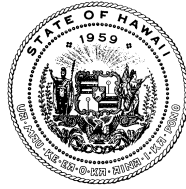
Chairs Belatti and Rhoads and Members of the Committees:

The Department of the Attorney General provides comments on this bill.

This bill would amend section 329D-6, Hawaii Revised Statutes (HRS), to allow medical marijuana dispensary production centers to include greenhouses and shade houses (page 1, lines 9-13).

The proposed wording on page 1, lines 9 through 13, raises some concerns. The terms "greenhouses" and "shade houses" are undefined and may give rise to ambiguous structures that may or may not be conforming. This ambiguity could be resolved by defining these terms.

The Department of the Attorney General respectfully recommends that if the Committees move this measure forward, they amend the bill as suggested.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on SB2523 SD1
RELATING TO MEDICAL MARIJUANA**

REPRESENTATIVE DELLA AU BELATTI, CHAIR
HOUSE COMMITTEE ON HEALTH

REPRESENTATIVE KARL RHOADS, CHAIR
HOUSE COMMITTEE ON JUDICIARY

Hearing Date: Wednesday, March 23, 2016 Room Number: 329

1 **Fiscal Implications:** None for the Department of Health (Department).

2 **Department Testimony:** Thank you for the opportunity to provide COMMENTS on this bill.

3 The Department requests that this bill be deferred until the dispensaries are operational
4 and their operations and impact can be assessed.

5 Nevertheless, should the Legislature proceed to enact the measure, the Department
6 requests that clear definitions be provided in the bill on how the grow sites and production
7 facilities should be secured and how the contents of the greenhouses or shade houses should not
8 be visible. The definitions and descriptions would provide a clear framework for what
9 constitutes acceptable security and non-visibility. It would also provide clear and unambiguous
10 direction to the Department so that DOH may effectuate the legislature's intent when drafting
11 related administrative rules.

12 Clearer guidance from the Legislature must also ensure a fair business climate since
13 changing the criteria for a license before the award of the first dispensary licenses could be
14 problematic.

1 There are sufficient and justifiable reasons to ask for this bill to be deferred until
2 dispensaries are operational so as to evaluate their success, including the security measures
3 provided for under the current law. It is important that any proposed change not punish those
4 who have submitted their application in reliance upon the law as previously written. A measure
5 of predictability is a foundational requirement that will enable the licensees and the Department
6 to achieve success in establishing the Medical Marijuana Licensed Dispensary Program in
7 Hawaii. However, should the Legislature proceed on this bill, the Department requests that the
8 Legislature provide clear definitions and guidance.

9 Thank you for the opportunity to provide comments on this bill.

10 **Offered Amendments:** None.



Dedicated to safe, responsible, humane and effective drug policies since 1993

TO: House Committees on Health and Judiciary
FROM: Carl Bergquist, Executive Director
HEARING DATE: 23 March 2016, 10AM
RE: SB2523 SD1, Relating to Medical Marijuana, **STRONG SUPPORT**

Dear Chairs Belatti and Rhoads, Vice Chairs Creagan and San Buenaventura, Members of the Committee:

The Drug Policy Forum of Hawai'i (DPFHI) **strongly supports** this measure to harness our natural resources in order to help the patients of Hawai'i who use medical marijuana. Using natural light would lead to cost savings for the producers, which, in turn, would presumably be passed on to the patients in the form of more affordable medicine. This bill is true to the spirit of Act 241, and it is line with the national trends to embrace renewable energy and lower the price of medicine. While it is unfortunate that open-air facilities were removed from the original bill via amendment, we nevertheless believe that this is a step in the right direction.

Act 241 set stringent conditions for security surrounding medical marijuana retail dispensaries and their affiliated production centers. We welcomed this, but never imagined that the Department of Health would subsequently draft interim administrative rules that prohibit both green houses and shade houses. This clearly undermines the intent of the legislature when it passed Act 241.

Our energy costs here in Hawaii are the highest in the country and many investors who are now become applicants for a dispensary license, have express concern about this. The ban on green houses will increase their electricity costs exponentially. This may turn, in an entirely avoidable way, medical marijuana into another unaffordable medicine. The United States already has extremely high medicine prices compared to other developed countries, and there is no reason whatsoever to contribute to this unfortunate situation via an own goal like the DOH green house ban.

Mahalo for the opportunity to testify.



ON THE FOLLOWING MEASURE:

S.B. NO. 2523, SD1, RELATING TO MEDICAL MARIJUANA

BEFORE THE:

HOUSE COMMITTEES ON HEALTH, AND JUDICIARY

DATE: Wednesday, March 23, 2016 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Conference Room 329

TESTIFIER(S): Antoinette Lilley, President, or Christopher Garth, Executive Director

Honorable Chairs Belatti and Rhoads and Members of the Committees:

The Hawai'i Dispensary Alliance submits the following testimony in **SUPPORT of S.B. 2523, SD1, RELATING TO MEDICAL MARIJUANA**, which allows medical marijuana production centers to be greenhouses and/or shade houses, provided that they are not visible from any thoroughfare.

Your Committees may recall that the comments of the Hawai'i Dispensary Alliance were solicited on this matter at an Informational Briefing before the Joint Committees on Health, on December 28, 2015.¹ The Alliance provided comments that addressed the Hawai'i State Department of Health (DoH) Administrative Rules (§11-850-2) that specifically excluded the use of greenhouses and/or shade houses as acceptable growing facilities for future recipients of the Hawai'i's medical marijuana dispensary licenses, as prescribed by HRS§ 329-D. Furthermore, our previous testimony on this measure argues that the cost of running a completely indoor facility for 3,000 plants, as currently described by DOH's rules, is prohibitively expensive due to Hawai'i having the highest electricity costs in the nation. The cost to run two facilities per license is even more. One frequent cost estimate that we received from dispensary applicants based on the current rule is that each 3,000 plant grow operation will cost a dispensary applicant approximately \$60,000 per month. This is just the cost of electricity for one "enclosed indoor facility" grow operation, and does not include the costs of running the rest of the grow operation or the dispensing and manufacturing operations. That \$60,000 per month per grow operation pays for approximately 13,000 barrels of oil per year. This single industry, with only 16 grow operations, will increase the State of Hawai'i's total energy consumption by 208,000 barrels of oil a year, almost 2%. Needless to say, this expense is not sustainable for dispensaries, either fiscally or environmentally.

In order to stay solvent, this expense, which is not a deductible business expense for federal tax purposes, will be passed on to the patients, substantially raising the price of legitimate medical cannabis and incentivizing patients to seek relief via the black market. Dispensaries may hire fewer and less

¹ Our testimony from that hearing is available at: <http://hawaiidispensaryalliance.org/wp-content/uploads/2015/12/2015.12.28-Alliance-Testimony.pdf>.

qualified workers while paying them less. These actions would ultimately result in reducing the industry's potential to provide high caliber new jobs to our island state.

Additionally, Hawai'i has an abundance of sun and mild weather and it would be a shame to see grow operations in Hawai'i confined to warehouses instead of the increasingly industry standard "hybrid greenhouse." It is our request that your committees consider and approve the language that has been amended by the previous Senate committee (CPH) to allow for "hybrid greenhouses."

For all of the foregoing reasons, the Hawai'i Dispensary Alliance **SUPPORTS** the amendments to HRS § 329-D-6 (f) and recommends that **S.B. 2523, SD1**, which will allow medical marijuana production centers to be greenhouses and or shade houses, provided that they are not visible from any thoroughfare, be moved forward for further discussion.

Thank you very much for the opportunity to provide testimony on this measure.

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON HEALTH

Chair: Rep. Della Au Belatti

Vice Chair: Rep. Richard Creagan

COMMITTEE ON JUDICIARY

Chair: Rep. Karl Rhoads

Vice Chair: Rep. Joy San Buenaventura

Wednesday, March 23, 2016

10:00 a.m.

Room 329

STRONG SUPPORT for SB 2523 SD1-GREENHOUSES FOR CANNABIS

Aloha Chairs Belatti and Rhoads and Members of the Committees!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for almost two decades. This testimony is respectfully offered on behalf of the 5,600 Hawai'i individuals living behind bars, always mindful that more than 1,600, and soon to be rising number of Hawai'i individuals who are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

SB 2523 SD1 repeals the requirement that medical marijuana dispensary facilities, except retail dispensing locations, be enclosed indoor facilities. It allows medical marijuana production centers to be secured greenhouses or shade houses; provided that the contents of the greenhouses or shade houses are not visible from any thoroughfare. Effective 7/1/2050.

Community Alliance on Prisons supports this measure. We attended the Task Force meetings and were part of the safety and security group that made recommendations to the task force and greenhouses, shade houses and open air growing was discussed within our group that included police and prosecutors. The consensus of the group was that this would be allowed provided that it could not be viewed from roads and neighborhoods and would have security cameras.

We toured a medical marijuana collective farm in California and were impressed with their high-tech and science-driven approach to growing cannabis. This farm had a tall perimeter fence that was covered with black-out material. The plants were all grown in greenhouses and separated by strain. From the road approaching the farm, one would not know what was behind the fence.

On a personal note, as a caregiver to several people, I know how important it is to keep patients comfortable while they are struggling through incredible pain and discomfort.

We urge the committee to adopt this measure for many different reasons:

- Patients need to know that their medicine is pure and devoid of pesticides and other contaminants: greenhouses provide more environmental controls
- The safety and security of cannabis farms has been discussed and vetted by the Task Force: black-out fences and cameras were recommended
- We have proof from other jurisdictions that this method has been successful for patients and law enforcement
- Indoor growing is costly because of the infrastructure and electricity costs. This will only make the medicine cost-prohibitive for some; thereby diminishing access
- Hawai'i has perfect weather in which to grow cannabis in green or shade houses to serve our communities

We humbly ask the committee to consider our thoughts.

Mahalo for this opportunity to testify.



Hawaii's Voice for Sensible, Compassionate, and Just Drug Policy

TO: HOUSE COMMITTEES ON HEALTH & JUDICIARY

FROM: PAMELA LICHTY, M.P.H., PRESIDENT

DATE: MARCH 23, 2016, 10 a.m., ROOM 329

RE: S.B. 2523, SD1 RELATING TO MEDICAL MARIJUANA – **STRONG SUPPORT**

Good afternoon, Chair Belatti, Chair Rhoads, Vice Chairs Creagan and San Buenaventura, and members of the Committees. My name is Pam Lichty and I'm President of the Drug Policy Action Group (DPAG), the government affairs arm of the Drug Policy Forum of Hawaii.

We're very pleased to offer our strong support to SB 2523, SD1. The original provision requiring that all dispensary growing facilities be in "enclosed indoor facilities" never made any sense. There is a growing trend throughout the country in the 23 medical marijuana states (and in the four states where cannabis is legal) to permit its growing in the latest iterations of greenhouses and shade houses. These kinds of structures not only save money in the state with the most costly electricity in the nation, but they take advantage of our many days of sunshine.

These facilities can be easily secured and rendered invisible from roads or adjacent properties and will save operators thousands of dollars per year. This will in turn prevent these unnecessary costs from being passed on to the patients.

As patient advocates and believers in common sense, we applaud the legislature for correcting the situation to create a sensible, cost effective solution that's a win-win for all stakeholders.

Mahalo for hearing SB 2523, SD1 and for giving us the opportunity to testify. We urge you to pass this measure on to Finance with a strong endorsement.

ON THE FOLLOWING MEASURE:

S.B. NO. 2523, SD1, RELATING TO MEDICAL MARIJUANA

BEFORE THE:

HOUSE COMMITTEES ON HEALTH, AND JUDICIARY

DATE: Wednesday, March 23, 2016

TIME: 10:00 a.m.

LOCATION: State Capitol, Conference Room 329

Honorable Chairs Belatti and Rhoads and Members of the Committee:

As a stakeholder in the medical marijuana industry I am writing in **SUPPORT of S.B. 2523, SD1 RELATING TO MEDICAL MARIJUANA**, which allows medical marijuana production centers to be greenhouses and/or shade houses, provided that they are not visible from any thoroughfare.

The changes proposed by the language of S.B. 2523, SD1, offer common sense changes that will allow Hawai'i's medical marijuana industry to function in an appropriate manner. These changes will benefit many sectors of Hawai'i's MMJ market, while additionally discouraging patients to engage with an unregulated marijuana economy (black market).

The energy costs of running one production/manufacturing facility could run as high \$60,000 per month. This is just the cost of electricity for one "enclosed indoor facility" grow operation, and does not include the costs of running the rest of the grow operation or the dispensing and manufacturing operations. In order to stay solvent, this expense, which is not a deductible business expense for federal tax purposes, will be passed on to the patients, and could substantially raise the price of legitimate medical cannabis. The resulting price escalation would incentivize patients to seek relief and product from the black market. Additionally, the costs associated with current restrictions on greenhouses and shade houses could result in licensees hiring fewer and or less qualified employees; thus, further impeding a patient's access to quality care and sound product.

For all of the foregoing reasons, I **SUPPORT S.B. 2523, SD1**, and recommend that it be moved forward for further discussion.

Thank you very much for the opportunity to provide testimony on this measure.

Respectfully,



Cris Clatte

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 22, 2016 9:58 AM
To: HLTtestimony
Cc: wendygibson9@gmail.com
Subject: Submitted testimony for SB2523 on Mar 23, 2016 10:00AM

SB2523

Submitted on: 3/22/2016

Testimony for HLT/JUD on Mar 23, 2016 10:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Wendy Gibson	Individual	Support	No

Comments: Because sunshine is free and electricity in Hawaii is sold at a premium cost, allowing medical cannabis dispensary growers to use sunshine would help cut costs dramatically. Greenhouses and shadehouses can be secured and visually obscured. After speaking with expert growers, I understand that the ideal way to grow medical cannabis is with an indoor/outdoor hybrid model-- where growing conditions can be tightly controlled while using natural resources. Please join me in supporting SB2523 SD. Mahalo

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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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 22, 2016 1:29 PM
To: HLTtestimony
Cc: j.bobich@tcu.edu
Subject: *Submitted testimony for SB2523 on Mar 23, 2016 10:00AM*

SB2523

Submitted on: 3/22/2016

Testimony for HLT/JUD on Mar 23, 2016 10:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph A. Bobich	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 22, 2016 2:44 PM
To: HLTtestimony
Cc: mcleanj5@outlook.com
Subject: Submitted testimony for SB2523 on Mar 23, 2016 10:00AM

SB2523

Submitted on: 3/22/2016

Testimony for HLT/JUD on Mar 23, 2016 10:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
John McLean	Individual	Support	No

Comments: I support this measure. The requirement that growing be done in indoor facilities will significantly drive up the cost of medicine to patients. In addition, indoor lights will consume energy, a costly limited resource. The climate in Hawaii is well-suited for growing in secured greenhouses or outdoors. I believe that concerns with non-patients "stealing" the medicines will be addressed by establishing secure outdoor or greenhouse facilities.

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HLTtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 23, 2016 7:49 AM
To: HLTtestimony
Cc: koonceleah@gmail.com
Subject: Submitted testimony for SB2523 on Mar 23, 2016 10:00AM

SB2523

Submitted on: 3/23/2016

Testimony for HLT/JUD on Mar 23, 2016 10:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Leah M. Koonce	Individual	Support	No

Comments: Aloha I am submitting testimony in support of SB2523 SD1 as it is imperative to repeal the requirement that medical marijuana dispensary facilities (except retail locations) because greenhouses in Hawaii are simply common sense. Forcing nature inside using artificial lights and conditions is an extremely expensive and unnecessary process for any plant including medical marijuana. Should dispensary growers not be allowed to utilize sunlight and rain and breeze provided by nature, the costs will surely be prohibitive to patients such as myself. Considering I am on a fixed income (\$750 monthly), and I have rent, bills and regular living expenses, any added costs will eliminate me from being able to use the dispensaries I've participated in bringing here to Hawaii so I can have safe reliable access to medication. Thank you, Leah M Koonce

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HLTtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 23, 2016 6:15 AM
To: HLTtestimony
Cc: mattbinder@earthlink.net
Subject: Submitted testimony for SB2523 on Mar 23, 2016 10:00AM

SB2523

Submitted on: 3/23/2016

Testimony for HLT/JUD on Mar 23, 2016 10:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Matt Binder	Individual	Support	No

Comments: Dear Legislators, It does not make sense to prohibit secure greenhouses from being used to grow marijuana, or anything else for that matter. Please vote for this bill and save patients millions of dollars, and save the environment in the process. Thank you

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TESTIMONY OF MICHAEL ROGERS

HEARING DATE/TIME: Wednesday, March 23, 2016
10:00 a.m.
Conference Room 329

TO: Committee on Health
Committee on Judiciary
Committee on Finance

RE: Testimony in Support of SB2523_SD1

Dear Chairs, Vice-Chairs and Committee Members:

My name is Michael Rogers. As a member of the agricultural industry of the state of Hawai'i and a recipient of a Bachelor of Science degree in Tropical Plants and Soil Sciences with a focus on plant production and management from the College of Tropical Agriculture and Human Resources at the University of Hawai'i, a land grant university responsible for agricultural education and support in the state of Hawai'i, I hereby strongly advocate the use of greenhouses and shade houses for the production of medical marijuana.

I strongly support SB2523 SD1. Allowing medical marijuana production centers to utilize greenhouse facilities and technology will help further the statutory goals of Hawai'i's medical marijuana dispensary law. Simply put, using the sun, rather than electricity, will reduce the cost of the medicine. Reducing the cost of the medicine increases ACCESS to the medicine.

Discussion

Just 3 months ago, Bloomberg Business reported how the high energy consumption of the legal marijuana industry is placing a heavy burden on the country's electrical grid. The sustainability examiner of Boulder County, Colorado said that a single 5000 sq. ft. indoor grow facility had consumed 29,000 kWh in a month. Each 3,000 plant grow facility permitted by Hawai'i law would be roughly three times in size, which amounts to 87,000 kWh per month. Pursuant to Hawai'i law each license permits two grow facilities and 8 licenses will be initially granted. More licenses will be issued if demand requires the same. Andrew Salini of High Country Healing, a well-established medical marijuana grower and dispensary in Colorado, has noted that power consumption of double the reported figure in the Bloomberg report is not uncommon.

While many indoor growers in other states attest that electricity amounts to half or more of their entire overhead cost, this could be a staggering cost in Hawai'i given our high electric rates. However, where some see obstacles, I see opportunity. For the first time, the commercial marijuana industry has come face to face with Hawai'i's obscenely high electric rates. This means there is more incentive than ever to create grow facilities that maximize energy efficiency. Hawai'i could be the birthplace and leader of the "sustainable" marijuana industry. That is, only if we could harness the energy of the sun.

Here's a crazy idea: Every time energy goes through a conversion into another form, like kinetic energy to electrical energy, there is a large power loss. A solar panel converts sunlight into electricity, a grow light converts the electrical energy back into light, and the chlorophyll in the plants convert the light into chemical energy. That's three conversions – five if you include the charge and discharge of a battery system. A grow facility that allows sunlight through its roof would cut that into a single conversion of photosynthesis and significantly reduce the power demands for, and ultimately the cost of, medical marijuana in Hawai'i.

The high costs of power in Hawai'i, would, of course, need to be shared with the end consumer thereby defeating one of the primary purposes of Hawai'i's medical marijuana dispensary law – providing legal, safe ACCESS to this medicine. There is a de facto inverse relationship between the cost of, and the access to, any type of medicine (assuming there is no insurance coverage).

In addition, with warehouse inventory at an all-time low on Oahu, dispensary licensees will be forced to incur higher startup costs as well which further increases the cost of medicine produced. Having a medical marijuana production facility in a dense industrial or commercial neighborhood is not only more costly it raises higher security concerns. A sparsely populated agricultural land would not only be farther away from public view, but would be easier to secure. One of the statutory requirements imposed upon marijuana production centers is the requirement that no marijuana may be viewable from outside the facility. The many types of greenhouse structures and modern covering material available today allows for structures with rigid translucent white coverings which scatter light, making it impossible to discern what is behind the covering while still providing ample photons to reach the leaf surfaces. Also, the scattered light softens the powerful rays in the tropics, decreasing stress and sunburn on the leaves, promoting healthier plants. Healthier plants means stronger plants with more resistance to pests and diseases which in turn means less need for plant disease management, including pesticides.

Conclusion. For all of the above reasons I respectfully submit that passage of SB2523_SD1 will further the statutory goals of Hawai'i's medical marijuana law, enhance the public safety and ultimately help Hawai'i's medical marijuana patients.

Respectfully Submitted,

/S/ Michael Rogers

Michael Rogers

HLTtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 23, 2016 9:34 AM
To: HLTtestimony
Cc: lady.flach@gmail.com
Subject: *Submitted testimony for SB2523 on Mar 23, 2016 10:00AM*

SB2523

Submitted on: 3/23/2016

Testimony for HLT/JUD on Mar 23, 2016 10:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede	Individual	Support	No

Comments:

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ON THE FOLLOWING MEASURE:

S.B. NO. 2523, SD1, RELATING TO MEDICAL MARIJUANA

BEFORE THE:

HOUSE COMMITTEES ON HEALTH, AND JUDICIARY

DATE: Wednesday, March 23, 2016

TIME: 10:00 a.m.

LOCATION: State Capitol, Conference Room 329

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For all of the foregoing reasons, I SUPPORT S.B. 2523, SD1, and recommend that it be moved forward for further discussion.

Thank you very much for the opportunity to provide testimony on this measure.

Thayne Taylor

Kalaheo, HI 96741

HLTtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 23, 2016 9:13 AM
To: HLTtestimony
Cc: victor.ramos@mpd.net
Subject: *Submitted testimony for SB2523 on Mar 23, 2016 10:00AM*

SB2523

Submitted on: 3/23/2016

Testimony for HLT/JUD on Mar 23, 2016 10:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Oppose	No

Comments:

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