

February 20th 2015

<u>COMMITTEE ON JUDICIARY AND LABOR</u> Senator Gilbert S.C. Keith-Agaran, Chair Senator Maile S.L. Shimabukuro, Vice Chair Senator Will Espero Senator Sam Slom

Senator Mike Gabbard Senator Les Ihara Jr. Senator Laura H. Thielen

NOTICE OF HEARING

- DATE: Monday, February 23, 2015
- TIME: 9:15 a.m.
- PLACE: Conference Room 016 State Capitol 415 South Beretania Street

RE: TESTIMONY IN STRONG SUPPORT OF SB269 RELATING TO PUBLIC ORDER

Establishes the process and grounds for a person to petition the court to vacate a conviction for obstructing a public place on grounds that the person was homeless at the time of committing the offense.

Dear Committee on Human Services & Housing:

The Pacific Alliance to Stop Slavery (PASS) strongly supports SB269. PASS has been helping the houseless population in Kakaako for the past year. We attest that the existing laws that are utilized to "sweep" the sidewalks and parks of homeless persons are extremely harmful to this vulnerable community.

These laws criminalizing the poverty make it exponentially difficult for social services to maintain contact with the houseless to direct them toward permanent housing. These City-run sweeps or "raids" on homeless encampments also result in:

1) many houseless persons losing their jobs since they must miss work to tend to their belongings during raids;

2) confiscation and unconstitutional disposal of identification and important documents such as social security cards, birth certificates, and marriage licenses, all of which are documents needed to obtain and maintain benefits, housing, housing first, employment and medication for serious medical conditions; and

3) relegating the victims of these raids to prolonged poverty since these raids are responsible for the confiscation of all property belonging to the houseless person involved.

This is no way to effectively handle homelessness and even makes the problem worse.



Problematic Criminalization Policies Implemented in Other U.S. Cities¹

Costly measures to incarcerate and fine homeless individuals:

- Issuing citations to homeless persons is expensive. San Francisco spent \$9.8 million between 2004 and 2008 on over 56,000 "quality of life" citations.
- Incarcerating homeless people costs twice as much as providing them permanent housing. In Cleveland, incarceration costs \$65 per day, versus \$30 per day for shelter. Seattle's "Housing First" program indicated that provided permanent housing for homeless people was 53% less expensive than having them live on the street. This marginal cost saving increased over time as program participants became financially stable and independent.
- Issuing citations does not prevent homelessness. Minneapolis spent an estimated \$2.6 million between 1994 and 2005 issuing citations and incarcerating 33 chronically homeless individuals, with minimal desired results.
- It may in fact make people more likely to remain homeless. Indianapolis spends \$3 to \$7 million annually on its population of 500 homeless individuals (similar in size to Honolulu's unsheltered homeless population estimate of 505 in 2013). The Indianapolis study notably linked contact with law enforcement with longer periods of homelessness and higher costs associated with healthcare.

Policies Proved to be Effective in Other U.S. Cities²

- Seattle's programs to place the chronically homeless into permanent housing cost \$1.1 annually and saved a total of \$2.5 million per year (\$2,400 per person), which was previously spent on medical expenses, bookings, and shelter.
- **Portland's** "A Key not a Card" initiative placed 936 homeless people into permanent housing between 2005 and 2009 at a cost of \$1.9 million per year.
- A **Palo Alto, Calif.** program created kits that other municipalities could purchase to establish their own employment and housing support services for homeless individuals. **Daytona Beach, Fla.** has recently implemented its kit with success.

Serious Concerns of Criminalization of Non-Violent Offenses

We enumerate some facts to consider with regard to criminalization and erosion of rights for the Homeless:

PRISON OVERCROWDING/INCARCERATION OF NONVIOLENT OFFENDERS
 Established ordinances and laws that criminalize the homeless exacerbate the overcrowding of
 our prison system and add more costs for the price of incarceration. To make room for the influx
 of more inmates, our Correctional Facilities would be incentivized to transport other inmates

¹ The National Law Center on Homelessness & Poverty and The National Coalition for the Homeless (July 2009) ² Ibid.



who have committed felonies, into the Federal Detention Center (FDC) or to mainland prisons, <u>all</u> <u>at the taxpayers' expense</u>. Many inmates have been abused and traumatized by their out-of-state transfer.

- i. As of the end of 2009, it cost approximately \$118 per day to incarcerate an inmate in OCCC (over \$42,000 per year per inmate), and at least \$62 per day to incarcerate him or her in a private prison on the mainland (over \$22,000 per year per inmate)³.
- ii. Furthermore, it is <u>unjust to incarcerate nonviolent offenders</u> along with violent convicted felons as a method of "rehabilitation" or to prevent recidivism. It only serves to traumatize these nonviolent offenders and create anti-social behavior.
- iii. Governor Abercrombie has publicly stated that he is committed to returning Hawaii's inmates back to Hawaii⁴. These proposed laws would complicate this commitment, should our prison system be burdened with the incarceration of more non-violent offenders, which these policies propose.

2) WASTE OF TAXPAYER DOLLARS

Criminalizing the homeless has proved, in other places (San Francisco, Los Angeles, South Carolina, Massachusetts, Florida, etc.) as well as in Honolulu, to be massively ineffective and only succeeds in wasting taxpayer dollars. Once the "offenders" have served their time, they go back to the streets and sidewalks and the State and City will have accomplished nothing. The only outcome these policies do is make it even harder for homeless persons to exit out of poverty since they will then have an additional hardship: a criminal record.

http://www.kitv.com/news/hawaii/sidewalk-nuisance-law-has-done-little-to-clear-clutter/-/8905354/21507216/-/8sv5eez/-/index.html

Civilbeat.com stated that the City spends \$15,000 each time it "sweeps" the streets of homeless persons, and the Mayor has publicly stated that he has increased the number of sweeps to 3 times a week. <u>http://www.civilbeat.com/2014/06/nightly-migration-homeless-chased-from-waikiki-for-a-few-hours/</u> and <u>http://www.kitv.com/news/hawaii/city-plans-on-homeless-sweeps-</u><u>3-times-a-week/-/8905354/23876950/-/guhguzz/-/index.html</u>

3) **DEHUMANIZATION**

Criminalization of the homeless has serious repercussions in our overall society. When marginalized groups of people are criminalized by law, surrounding community members tend to dehumanize this group as we've seen throughout the past, especially with the Nuremberg Laws of Nazi Germany. In present day Hawaii, we have seen several violent beatings, and even murder of homeless persons in the recent past, coming on the heels of well publicized laws and

³ Johnson, D. (2011) Hawaii's Imprisonment Policy and the Performance of Parolees Who Were Incarcerated In-State and on the Mainland. Hawaii State Department of the Attorney General. Retrieved on January 11, 2014, from: <u>http://ag.hawaii.gov/cpja/files/2013/01/AH-UH-Mainland-Prison-Study-2011.pdf</u>

⁴ Reyes, B.J. (2010) Abercrombie pledges isle inmates' return. A suit against an Arizona prison spurs the move. <u>http://www.staradvertiser.com/news/20101216</u> Abercrombie pledges isle inmates return.html?id=111986729



ordinances criminalizing the homeless. <u>http://www.examiner.com/article/third-homeless-man-</u><u>murdered-on-oahu-6-weeks</u>

4) A HUMAN RIGHTS VIOLATION

Criminalizing the homeless is also a human rights violation recognized by the United Nations. The UN has called upon the United States to repeal laws criminalizing homelessness. <u>http://www.unmultimedia.org/radio/english/2012/04/united-states-urged-to-repeal-laws-criminalizing-homelessness/</u>

5) CRIMINALIZATION OF HOMELESS/RUNAWAY CHILDREN

A particularly vulnerable population, within the overall homeless community, are juveniles at high risk for human trafficking. These children deserve basic rights, services, and care, not criminalization. Hawaii exceeds the national average in its rate of the incarceration of nonviolent juveniles for status offenses, with roughly 30% incarcerated for runaway offenses and another 20% for truancies. Further criminalization for being a homeless youth would only worsen and already serious existing problem facing Hawaii's Juvenile Justice System⁵.

We must enable the houseless with the right to live free to selective enforcement. PASS kindly and respectfully urges you to pass SB269, to enable the houseless who have been criminalized, fined, and incarcerated for these unjust laws, to have a fighting chance to leave homelessness with a clean record from these unnecessary petty crimes of poverty.

Sincerely,

Kathryn Xian Executive Director Pacific Alliance to Stop Slavery

⁵ Umemoto, K.; Spencer, J.; Miao, T.; Momen, S.. (June, 2012) Disproportionate Minority Contact 2000-2010. State of Hawaii, Crime Prevention and Justice Assistance Division. Retrieved on April 24th 2013, from: <u>http://ag.hawaii.gov/cpja/files/2013/01/DMC-FINAL-REPORT-2012.pdf</u>



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

TESTIMONY FOR SENATE BILL 269, SENATE DRAFT 1, RELATING TO PUBLIC ORDER

Senate Committee on Judiciary and Labor Hon. Gilbert S.C. Keith-Agaran, Chair Hon. Maile S.L. Shimabukuro, Vice Chair

Monday, February 23, 2015, 9:15 AM State Capitol, Conference Room 016

Honorable Chair Keith-Agaran and committee members:

I am Kris Coffield, representing the IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 300 local members. On behalf of our members, we offer this testimony <u>in support of SB 269</u>, SD1, relating to public order.

Over the past three years, Honolulu Mayor Kirk Caldwell and the Honolulu City Council have enacted several ordinances aimed at "compassionately disrupting" homelessness on O'ahu. The most prominent of these ordinances are recently enacted sit-lie bans, which were originally implemented in high commerce areas like Waikiki, but have been expanded to commercial properties located in all regions of O'ahu, including windward and leeward towns and, most recently, malls bordered by businesses. Additionally "obstruction" ordinances target property stored on sidewalks and houseless persons remaining in parks after operating hours.

City officials erroneously argue that these measures are intended to preserve the legitimate, largely pedestrian, use of public space necessary for commercial and recreational conduct. If people can't walk down the sidewalk, city leaders contend, local entrepreneurs will not be able to receive customers and pedestrians will not be able to safely enjoy the unique cultural experience of our island home.

We believe these arguments are false for three reasons. First, the city ordinances amount to an unconstitutional criminalization of the homeless. Councilmembers have stated that the new laws do not specifically target the homeless, but rather anyone engaging in obstructive activity. Many judges and legal experts around the country have repeatedly argued that these laws are selectively enforced against the homeless in the form of unannounced property raids, which constitute an unconstitutional violation of the Fourth Amendment's search and seizure protections. For clarity, the Fourteenth Amendment provides that: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Again for clarity, the terms "search" and "seizure" were concisely summarized in the majority opinion to *United States v. Jacobsen*, 466 U.S. 109 (1984), which declared that Fourth Amendment, "protects two types of expectations, one involving 'searches', the other 'seizures'. A *search* occurs when an expectation of privacy that society is prepared to consider reasonable is infringed. A *seizure* of property occurs where there is some meaningful interference with an individual's possessory interests in that property." According to these understandings, When law enforcement, without notice, raid a homeless encampment and usurp–and often destroy–houseless people's belongings, including basic government documents and identification, the city is infringing homeless people's civil rights.

Second, these ordinances, and sit-lie bans in particular, are ineffective, serving neither to increase local economic activity or improve services to the homeless. Instead, these ordinances place a significant cost upon local taxpayers. Every raid on a homeless encampment costs the City and County of Honolulu approximately \$15,000, according to Mayor Caldwell, and similarly burdensome expenses are borne by the storage and destruction of confiscated property and potential arrest, prosecution, and incarceration of violators. A 2012 report from the University of Berkeley School of Law's Policy Advocacy Clinic found that empirical claims about the economic benefits of nuisance ordinances that disproportionately target the homeless are "neither proven nor promising" and suggested, instead, that supportive housing strategies, such as Housing First initiatives, would better accomplish municipal goals of reducing homelessness, cutting crime rates, and boosting fiscal growth.

Third, the aforementioned city laws do not and cannot incentivize housing, unless an adequate supply of shelter space and affordable housing is available. Currently, Hawai'i has an adequate supply of neither. According to a 2011 planning study, up to 50,000 new housing units will need to be built by 2016 to satisfy demographic and economic demand. Failure to produce sufficient units for low- and moderate-income households at a time when the overall economy continues to stutter and consumer prices escalate could place more people on the streets. Shelter space, too, exceeds the total number of homeless people in the islands. In Honolulu alone, the Institute for Human Services emergency shelter houses 390 people, with Next Step Shelter housing another 220 individuals. Yet, in the 2014 State of Homelessness in America report, Hawai'i ranked highest among in the nation for homeless people per capita. A 2014 state-sponsored point-in-time tally found there were more than 4,700 homeless in Honolulu and another 2,200 on the neighboring islands, totals that likely underreport reality given the reluctance of large numbers of homeless to participate in government studies.

Criminalization will not cure homelessness. Only housing will. Our efforts to end poverty for our state's most vulnerable citizens should be spent toward increasing the supply of shelter

space and truly affordable housing, including micro-housing and Housing First operations, available to those in need. If the aforementioned nuisance laws are not intentionally designed to target the homeless, as city leaders maintain, we submit that there should be no argument against passing this bill to vacate nuisance convictions that resulted from homelessness and, essentially, could not be helped, but have the unintended consequence of turning Hawai'i's homeless into a suspect class whose civil rights are routinely violated. Criminal convictions that would be vacated by this bill often morph into discrimination, creating a legal trail that impairs a person's ability to obtain housing, employment, higher education, and more. As the National Coalition for the Homeless wrote in 2014, as many as 70 percent of homeless people are already subject to "economic profiling," a form of discrimination in which law enforcement, private business, medical, and even social programs deny services because of real or perceived houselessness.

We must ask ourselves: are poor people in need of a jail cell or a helping hand? We hope you choose the latter. Mahalo for the opportunity to testify <u>in support</u> of this bill.

Sincerely, Kris Coffield *Executive Director* IMUAlliance To whom it may concern,

I am a supporter of SB269.

I actively volunteer with families in Kaka'ako who are homeless and have no way to pay fines due to the police raids and inhumane sit-lie laws recently passed.

Many families and individuals have tried to apply to shelters and/or were living with relatives, but the shelters are full and have long wait-lists, many relatives can only offer temporary relief. As you know, public housing in Hawaii has a $\sim 10,000$ family backlog.

Please support this measure and protect the most vulnerable among us from unfair and unjust criminalization of poverty.

Thank you.

Sincerely, Lani Kwon

Founder and CEO of The Creating CoPOWERment® Center LLC and Creating YOUR Calling® LLC lani@coPOWERment.com http://www.coPOWERment.com

From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	*Submitted testimony for SB269 on Feb 23, 2015 09:15AM*
Date:	Friday, February 20, 2015 7:14:46 AM

Submitted on: 2/20/2015 Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede	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.

From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	Submitted testimony for SB269 on Feb 23, 2015 09:15AM
Date:	Friday, February 20, 2015 7:44:18 AM

Submitted on: 2/20/2015 Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Murray	Individual	Support	No

Comments: I strongly support this Bill, SB269. Until the day we can repeal such regressive and oppressive laws that target and criminalize houselessness, we need these remedies. The irony is that criminalizing houselessness is considered keeping public order, when in fact, it creates public disorder. Targeting the vulnerable goes against everything we are taught since birth and is a sign of a disorder, a disease in our societal being.

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From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	Submitted testimony for SB269 on Feb 23, 2015 09:15AM
Date:	Friday, February 20, 2015 10:38:42 AM

Submitted on: 2/20/2015 Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Lori Nakamura-Higa	Individual	Support	No

Comments: Aloha Chair, Vice Chair and committee members, Thank you for allowing me to submit testimony. I am in support of SB269 SD1. It's a travesty when there are those that find themselves in an impoverished state to be treated like criminals directly as a result of their current living conditions. I urge you to please support SB269 SD1. Mahalo

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From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	Submitted testimony for SB269 on Feb 23, 2015 09:15AM
Date:	Friday, February 20, 2015 11:45:30 AM

Submitted on: 2/20/2015 Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Lynn Onderko	Individual	Support	No

Comments: Aloha Senators, I hope you will do the right thing and support this bill. Our homeless should not be further penalized for the laws that already unfairly criminalize them. Please consider with a compassionate heart. Mahalo!

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Hello,

My name is Emily Krause and I support SB 269.

Thank you.

-Emily Krause

From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	*Submitted testimony for SB269 on Feb 23, 2015 09:15AM*
Date:	Friday, February 20, 2015 8:30:50 PM

Submitted on: 2/20/2015 Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Ronnie Perry	Individual	Support	No

Comments:

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From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	*Submitted testimony for SB269 on Feb 23, 2015 09:15AM*
Date:	Saturday, February 21, 2015 1:33:59 AM

Submitted on: 2/21/2015 Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Evern Williams	Individual	Support	No

Comments:

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From:	Patricia Blair
To:	JDLTestimony
Subject:	I support SB 269SD1
Date:	Saturday, February 21, 2015 9:15:10 AM

Please pass. Lets be good human beings, give people a chance. Thank you. Patricia Blair, Kailua, Sent from my iPad

From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	*Submitted testimony for SB269 on Feb 23, 2015 09:15AM*
Date:	Saturday, February 21, 2015 10:47:48 AM

Submitted on: 2/21/2015 Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Kara	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.

From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	Submitted testimony for SB269 on Feb 23, 2015 09:15AM
Date:	Saturday, February 21, 2015 2:59:47 PM

Submitted on: 2/21/2015 Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Seena Clowser	Individual	Support	No

Comments: Houseless individuals should not be be harassed for needing to sleep or sit or lie down in public. The sit-lie laws do nothing to solve the chronic problem of homelessness. Arguably, these laws tax police and justice departments and create needless roadblocks for vulnerable people to maintain or obtain wellness.

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From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	Submitted testimony for SB269 on Feb 23, 2015 09:15AM
Date:	Saturday, February 21, 2015 5:47:00 PM

Submitted on: 2/21/2015 Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
C. Kaui Lucas	Individual	Support	No

Comments: poverty and houselessness are not crimes.

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From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	*Submitted testimony for SB269 on Feb 23, 2015 09:15AM*
Date:	Saturday, February 21, 2015 11:01:03 PM

Submitted on: 2/21/2015 Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mitsuko Hayakawa	Individual	Support	No

Comments:

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From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	*Submitted testimony for SB269 on Feb 23, 2015 09:15AM*
Date:	Sunday, February 22, 2015 8:44:31 AM

Submitted on: 2/22/2015 Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Tamaki Takada	Individual	Support	No

Comments:

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From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	*Submitted testimony for SB269 on Feb 23, 2015 09:15AM*
Date:	Sunday, February 22, 2015 10:00:58 AM

Submitted on: 2/22/2015 Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
James L. Johnston	Individual	Support	No

Comments:

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From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	*Submitted testimony for SB269 on Feb 23, 2015 09:15AM*
Date:	Sunday, February 22, 2015 11:32:38 AM

Submitted on: 2/22/2015 Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Ashley Romero	Individual	Support	No

Comments:

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From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	Submitted testimony for SB269 on Feb 23, 2015 09:15AM
Date:	Sunday, February 22, 2015 3:21:00 PM

Submitted on: 2/22/2015 Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Sherry Pollack	Individual	Support	No

Comments: I strongly support this bill which will help undo some of the wrongs created by the City and their ordinances that have targeted the poor. Please pass this bill.

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From:	mailinglist@capitol.hawaii.gov
To:	JDLTestimony
Cc:	
Subject:	Submitted testimony for SB269 on Feb 23, 2015 09:15AM
Date:	Sunday, February 22, 2015 6:30:28 PM

Submitted on: 2/22/2015 Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Duane Sosa	Individual	Support	No

Comments: Aloha!!! My Name is Duane Sosa. I am testifying in SUPPORT of SB 269. Mahalo

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