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#### Testimony in SUPPORT of HB2268 RELATING TO CESSPOOLS

# REPRESENTATIVE CHRIS LEE, CHAIR HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Hearing Date: February 6, 2018 Room Number: 325

Time: 8:35 a.m.

- 1 Fiscal Implications: We appreciate and support the intent of this initiative, but defer to the
- 2 Governor's Executive Supplemental Budget Request for the Department of Health's (Department)
- 3 appropriations and personnel priorities.
- 4 **Department Testimony:** The Department supports the intent of this measure with comments.
- 5 Cesspools are a major source of pollution to Hawaii's waters. There are approximately 88,000
- 6 cesspools in the State, discharging approximately 53 million gallons of untreated sewage into the
- 7 groundwater every day. Groundwater flows into drinking water sources; since ninety-five percent
- 8 of all drinking water in Hawaii comes from ground water sources, this cesspool pollution can
- 9 potentially harm human health. Groundwater also flows into streams and the ocean, harming public
- 10 health and the environment, including beaches, recreational waters, and coral reefs. Hawaii needs
- to upgrade cesspools statewide as soon as feasible in order to protect the public health and
- 12 environment.
- 13 The Department notes similarities of this measure and HB2626, both of which call for study of
- financing assistance options and best practices, equipment and technologies. The Department has
- 15 considered how to combine the best features from these two bills. Attached as a separate document
- are the Department's suggested amendments, which include language from both HB2268 and
- 17 HB2626.
- 18 Offered Amendments: Please refer to the attached document for the Department's proposed
- 19 changes for this bill.
- Thank you for the opportunity to testify on this measure.

Offered amendments for HB2268 (track changes):

RELATING TO CESSPOOLS.

#### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. (a) The department of health shall hire a third-party consultant to conduct a study on the upgrade, conversion, or connection of cesspools statewide, including financing issues and financing mechanisms. The study shall be conducted in collaboration with the working group established under subsection (b). At a minimum, the study shall:

- (1) Determine the feasibility of all financing mechanisms available to upgrade all category priority 1, 2, and 3 cesspools within twenty years;
- (2) Explore the feasibility of various sources of funding including state and county funds, grants, loans, fees, real property taxes, creation of special assessment districts, or any combination of funding sources for the upgrading of all category priority 1, 2, and 3 cesspools;
- (3) Research best practices used by other jurisdictions throughout the United States for cesspool conversions;
- (4)(2) Consider individual homeowners' ability to pay for cesspool conversion and the possible provision of grant tax exemptions or credits based on individual income levels to assist homeowners in paying for cesspool conversion, especially for lower-income homeowners;
- (5)(3) Research and make recommendations on state and county partnerships to implement any cesspool conversion plan and assist homeowners with cesspool conversions;
- (6)(4) Include feedback from community members on each island as well as feedback from each county's wastewater division;
- (7)(5) Evaluate mandatory versus voluntary participation in any cesspool conversion plan;
- (8) Consider the use of alternative septic system technologies appropriate to the various areas where cesspools are located;
- (6) Consider alternative wastewater equipment and technologies appropriate to the various areas where cesspools are located that may better protect the environment at lower cost and how the equipment or technologies can be incorporated as part of the long-term solution to wastewater treatment issues. These alternatives may include without limitation graywater systems, constructed wetlands, and other available technologies;
- (7) Consider measures to encourage and stimulate research and innovation for new wastewater technologies, including systems that treat waste not only for bacteria but also remove nutrients and other contaminants that impact the environment;
- (8) Assess and develop a methodology for comprehensive data collection and analysis of the effects of cesspools on groundwater, surface water, and nearshore waters statewide; and Identify areas where data is insufficient to determine a priority classification of cesspools for conversion and determine methods and resources needed to obtain and collect the data;
- (9) Assess the 14 priority areas and develop site specific recommendations which should include but not be limited to connection to a sewer system and/or installation of wastewater systems approved by the Department of Health;
- (9)(10) Develop a long-range comprehensive plan for cesspool conversion statewide to be known as the cesspool conversion plan;

- (10)(11) Include any other information deemed necessary or appropriate by the department of health, the working group established under subsection (b), or the third-party consultant.
- (b) There is established a cesspool conversion working group within the department of health for administrative purposes. The working group shall consist of the following members:
  - (1) The director of health, or the director's designee, who shall serve as the chair of the working group;
  - (2) The branch chief of the clean water branch of the department of health, or the branch chief's designee;
  - (3) The branch chief of the sanitation branch of the department of health, or the branch chief's designee;
  - (3) The branch chief of the wastewater branch of the department of health, or the branch chief's designee;
  - (4) The branch chief of the safe drinking water branch of the department of health, or the branch chief's designee;
  - (5) The administrator of the division of aquatic resources of the department of land and natural resources, or the administrator's designee;
  - (6) Four members representing the appropriate wastewater agency from each county, appointed by the mayor of the county in which the agency is located;
  - (7) A member of the house of representatives, appointed by the speaker of the house;
  - (8) A member of the senate, appointed by the president of the senate;
  - (9)(7) A county director of finance, appointed by the Hawaii council of mayors;
  - (10)(8) A member representing the sanitation wastewater industry, appointed by the president of the senate; and
  - (9) A member representing environmental groups, appointed by the speaker of the house-;
  - (10) A member of the University of Hawaii, Institute of Marine Biology; and
  - (11) A member of the University of Hawaii, Water Resources Research Center.
  - (c) The cesspool conversion working group shall work in collaboration with the third-party consultant hired by the department of health to conduct the study under subsection (a).
  - (d) Members of the cesspool conversion working group shall be exempt from section 26-34 and shall serve without compensation but shall be reimbursed for reasonable expenses necessary expenses for the performance of their duties, including air transportation travel expenses, to attend meetings of the working group and in the discharge of duties of the working group.
  - (e) No member of the working group shall be made subject to section 84-17, Hawaii Revised Statutes, solely because of that member's participation as a member of the working group.
  - (f) The cesspool conversion working group shall cease to exist on January 1, -20202021.
  - SECTION 2. The director of health, in consultation with the cesspool conversion working group, shall submit an interim report, including findings and recommendations, to the legislature no later than December 31, 20182019, and shall submit a final report, including findings, recommendations, and any proposed legislation to the legislature no later than twenty days prior to the convening of the regular session of 2020 and 2021.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal years 2018-2019 and 2019-2020 to conduct a study on the upgrade, conversion, or connection of cesspools statewide, including financing issues and financing mechanisms.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2018, and shall be repealed on January 1, 20202021.

Offered amendments for HB2268 (clean copy):

RELATING TO CESSPOOLS.

#### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. (a) The department of health shall hire a third-party consultant to conduct a study on the upgrade, conversion, or connection of cesspools statewide, including financing issues and financing mechanisms. The study shall be conducted in collaboration with the working group established under subsection (b). At a minimum, the study shall:

- (1) Determine the feasibility of all financing mechanisms available to upgrade all priority 1, 2, and 3 cesspools within twenty years including state and county funds, grants, loans, fees, real property taxes, creation of special assessment districts, or any combination of funding sources for the upgrading of all priority 1, 2, and 3 cesspools;
- (2) Consider individual homeowners' ability to pay for cesspool conversion and the possible provision of grant tax exemptions or credits based on individual income levels to assist homeowners in paying for cesspool conversion, especially for lower-income homeowners;
- (3) Research and make recommendations on state and county partnerships to implement any cesspool conversion plan and assist homeowners with cesspool conversions;
- (4) Include feedback from community members on each island as well as feedback from each county's wastewater division;
- (5) Evaluate mandatory versus voluntary participation in any cesspool conversion plan;
- (6) Consider alternative wastewater equipment and technologies appropriate to the various areas where cesspools are located that may better protect the environment at lower cost and how the equipment or technologies can be incorporated as part of the long-term solution to wastewater treatment issues. These alternatives may include without limitation graywater systems, constructed wetlands, and other available technologies;
- (7) Consider measures to encourage and stimulate research and innovation for new wastewater technologies, including systems that treat waste not only for bacteria but also remove nutrients and other contaminants that impact the environment;
- (8) Identify areas where data is insufficient to determine a priority classification of cesspools for conversion and determine methods and resources needed to obtain and collect the data;
- (9) Assess the 14 priority areas and develop site specific recommendations which should include but not be limited to connection to a sewer system and/or installation of wastewater systems approved by the Department of Health;
- (10)Develop a long-range comprehensive plan for cesspool conversion statewide to be known as the cesspool conversion plan;
- (11) Include any other information deemed necessary or appropriate by the department of health, the working group established under subsection (b), or the third-party consultant.
- (b) There is established a cesspool conversion working group within the department of health for administrative purposes. The working group shall consist of the following members:
  - (1) The director of health, or the director's designee, who shall serve as the chair of the working group;
  - (2) The branch chief of the clean water branch of the department of health, or the branch chief's designee;

- (3) The branch chief of the wastewater branch of the department of health, or the branch chief's designee;
- (4) The branch chief of the safe drinking water branch of the department of health, or the branch chief's designee;
- (5) The administrator of the division of aquatic resources of the department of land and natural resources, or the administrator's designee;
- (6) Four members representing the appropriate wastewater agency from each county, appointed by the mayor of the county in which the agency is located;
- (7) A county director of finance, appointed by the Hawaii council of mayors;
- (8) A member representing the wastewater industry, appointed by the president of the senate;
- (9) A member representing environmental groups, appointed by the speaker of the house;
- (10) A member of the University of Hawaii, Institute of Marine Biology; and
- (11) A member of the University of Hawaii, Water Resources Research Center.
- (c) The cesspool conversion working group shall work in collaboration with the third-party consultant hired by the department of health to conduct the study under subsection (a).
- (d) Members of the cesspool conversion working group shall be exempt from section 26-34 and shall serve without compensation but shall be reimbursed for reasonable expenses necessary for the performance of their duties, including travel expenses, to attend meetings of the working group and in the discharge of duties of the working group.
- (e) No member of the working group shall be made subject to section 84-17, Hawaii Revised Statutes, solely because of that member's participation as a member of the working group.
- (f) The cesspool conversion working group shall cease to exist on January 1, 2021.
- SECTION 2. The director of health, in consultation with the cesspool conversion working group, shall submit an interim report, including findings and recommendations, to the legislature no later than December 31, 2019, and shall submit a final report, including findings, recommendations, and any proposed legislation to the legislature no later than twenty days prior to the convening of the regular session of 2020 and 2021.
- SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal years 2018-2019 and 2019-2020 to conduct a study on the upgrade, conversion, or connection of cesspools statewide, including financing issues and financing mechanisms.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2018, and shall be repealed on January 1, 2021.

<u>HB-2268</u> Submitted on: 2/5/2018 8:29:22 AM

Testimony for EEP on 2/6/2018 8:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:

Harry Kim
Mavor



Wil Okabe Managing Director

Barbara J. Kossow
Deputy Managing Director

# County of Hawai'i Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawal'i 96720 • (808) 961-8211 • Fax (808) 961-6553 KONA: 74-5044 Ane Keohokālote Hwy., Bldg C • Kailua-Kona, Hawal'i 96740 (808) 323-4444 • Fax (808) 323-4440

February 5, 2018

Representative Chris Lee, Chair Committee on Energy & Environmental Protection Hawai'i State Capitol, Room 325 Honolulu, HI 96813

Dear Chair Lee and Committee Members:

Re: HB 2268, HB 2573, HB 2626, HB 2540 Relating to Cesspools Hearing Date (HB 2573): 02/06/18 – 8:35 am; Conference Room 325

Housing already is barely affordable for many Hawai'i residents and the conversion of cesspools to septic systems is a very costly proposition. Therefore, if cesspools are to be abolished in the State of Hawai'i, anything that eases the financial burden will be welcomed.

As a result, I support HB 2268, HB 2573, HB 2626, and HB2540, to the extent that those bills provide ways to reduce the net expenses of our constituents.

Harry Kim

Mayor, County of Hawai'i

Respectfully submitted.

Submitted on: 2/5/2018 12:41:06 PM

Testimony for EEP on 2/6/2018 8:35:00 AM

Submitted By	Organization	<b>Testifier Position</b>	Present at Hearing
William Kucharski		Comments	No

#### Comments:

Dear Chairperson Lee and Members of the Committee on Energy & Environmental Protection:

The County of Hawaii (COH) provides comment on HB2268.

- 1. HB2268 is similar to HB 2626 which the County of Hawaii (COH) has supported. Whichever Bill is passed, the main efforts will be supported by COH. Comments only are provided for HB2268.
- 2. The creation of a cesspool conversion working group (group) to delve into the cesspool issues that exist in the State of Hawaii is a step forward in the process of upgrading individual homeowner waste water treatment systems from cesspools to a more environmentally sustainable alternative(s). The composition of the group, as currently structured, is Hawaii Department of Health (HDOH) with County, Legislative with public and private industry support. To enhance the perspective of the group, it is recommended that a County Planning Director be added.
- 3. It is recommended that any work scope or RFP for consultant services be approved by the group prior to issuance by HDOH. Additionally, the group should be consulted and provide approval of the selection of such a contractor by the HDOH (Section 1, subpart (c)).
- 4. Funding of the group and contracting support must be provided so that an experienced and knowledgeable technical resource or resources can be hired in order to meet a December 2018 completion date for the interim report and a final report by January 1, 2020. Additionally, in order for the council to provide a substantive final report by December 2019, the HDOH will require adequate resources in order to provide the necessary technical and administrative support to the group. Adequate funding for the appropriate consultant(s) and the input of government and outside financial entities will be essential to the success of this process.
- 5. Annual reports to the Legislature are appropriate and having representatives of the Legislature as part of the group is also positive.

- 6. It is proposed that in addition to the technical members of the group currently defined in the Bill, that an additional financial expert from the commercial sector be explicitly added as a member.
- 7. This Bill is a positive step forward in attempting to handle very expensive yet necessary actions by the State of Hawaii.

Thank you for your consideration of this testimony.

Sincerely,

William A. Kucharski, Director, Department Environmental Management, COH

# DEPARTMENT OF ENVIRONMENTAL SERVICES CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL MAYOR



February 5, 2018

LORI M.K. KAHIKINA, P.E.

TIMOTHY A. HOUGHTON DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E. DEPUTY DIRECTOR

IN REPLY REFER TO: WAS 18-19

The Honorable Chris Lee, Chair and Members of the Committee on Energy and Environmental Protection House of Representatives State Capitol 415 South Beretania Street Honolulu, Hawaii 96813

Dear Chair Lee and Members:

Subject: House Bill 2268, Relating to Cesspools

The City and County of Honolulu's (City) Department of Environmental Services generally supports HB 2268, and the long term conversion of cesspools to other waste disposal options.

The proposed study and advisory committee are potentially useful, but the proposal fails to address whether or not conversion of cesspools, while valuable, will have the most benefit in reducing groundwater and near shore pollution. Further, it is important to first address what type of conversion is appropriate for each area before moving toward alternative septic system technologies or other technologies. In areas where a local wastewater collection, treatment, and reuse system might be most valuable, it would be inappropriate to move quickly to conversion to individual wastewater system which will cost significant amounts and effectively preclude transition to a more "central" system.

Thank you for your consideration.

Sincerely,

Lori M.K. Kahikina, P.E

Virectory



Feb. 5, 2018

#### Support for **HB2268**: Relating to Cesspools

**Committee: Energy & Environmental Protection (EEP)** 

Hearing: Feb. 6, 2018, 8:30am, Rm. 325

Dear Chair Lee, Vice Chair Lowen and Members of the EEP Committee,

As the Hawaii Manager of the Surfrider Foundation, I am writing in strong support of HB2268, the bill requiring DOH to hire a 3<sup>rd</sup> party working group to reduce the number of cesspools in the state. With more than 5000 activists and members across the state, the Hawaii Chapters of The Surfrider Foundation supported the original bill upgrade cesspools to better septic systems and aerobic treatment units (ATU). But since the passage of Act 120 two years ago, there have only been a handful of cesspool upgrades, and we are working with the Hawaii Dept. of Health (DOH) to improve their public outreach and community involvement.

Non-point source discharge from cesspools in Hawaii is a serious threat to our water quality, and this bill would create a working group to come up with the best ways to do cesspool upgrades, conversions or connections to sewer lines. With about 88,000 across the state, Hawaii has the highest number of cesspools in the country, and many pose a threat to water resources. These substandard wastewater systems leach untreated human waste, harmful pathogens and nutrient loads into nearby waters. Cesspools are a leading source of water pollution, and their effluent can contaminate drinking water sources, streams and oceans with disease-causing pathogens, algae-causing nutrients and other harmful substances.

In monitoring the water quality of North Shore beaches on Kauai, the Chapter has seen improvement after the replacement of cesspools at Kauai County beach parks and along the Hanalei River, where enterococcus counts at the beach at the Pavilion and estuary decreased approximately 56% between 2004 and 2013. Where sewer connections are not available, septic systems and ATU's are a big step forward in protecting public health and the environment. We helped pass the bill to give homeowners tax credits for upgrading their cesspools within 400 feet of the shoreline, waterways or wells because they are the most dangerous. We hope they will make sure the replacements have some form of aerobic digestion.

Unfortunately, we recognize that the \$10,000 tax credit does not cover the full cost of new septic systems, which can be as much as \$20k-\$30k. So we support creating a working group to study the issue and come up with the best solutions for the state.

Because cesspools pose serious public health and environmental problems, the proposed amendments are needed to make sure that Act 120 and the cesspool upgrade tax credits are successful. Mahalo for your consideration and leadership in dealing with these water quality issues.

Aloha,

Stuart Coleman

Stuart H. Coleman, Hawaii Manager

Submitted on: 2/5/2018 9:43:26 PM

Testimony for EEP on 2/6/2018 8:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing	
Lisa Bishop	Friends of Hanauma Bay	Support	No	

#### Comments:

Aloha and thank you for the opportunity to testify in SUPPORT of HB2268. This bill provides a measured and reasonable approach to identifying realistic solutions to a very real environmental problem.

Mahalo

Lisa Bishop

Friends of a Hanauma Bay

Submitted on: 2/6/2018 7:32:06 AM

Testimony for EEP on 2/6/2018 8:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rafael Bergstom	Surfrider Foundation Oahu Chapter	Support	Yes

#### Comments:

Aloha Chair Lee and Members of the EEP Committee,

Surfrider Foundation Oʻahu Chapter stands with our Hawaiʻi chapter's testimony in support of this bill. We would also like to add that an amendment to strengthen the bill that requires action on the report at the start of 2019. While we understand that the issue is complicating because of the heavy cost of upgrades, the situation is also of pressing need. Our marine resources and public health are at stake. Ultimately, the science already exists to prove the problem and the precedent has already been set — no other State allows these archaic infrastructure pieces to be used. The reasons are very simple, the uncontrolled release of untreated human waste into our freshwater and nearshore ocean waters is a detriment to all levels of the health spectrum. One very obvious suggestion is to begin charging monthly fees for all cesspool users to fund a cesspool conversion fund. If members of our community pay sewer fees to dispose of their human waste, it seems natural that the members of community who contribute the most to contaminated release of human waste, would also have to pay fees. We understand that there are issues of equity and historical negligence associated with this funding scheme and thus the reason to support this working group.

Mahalo for your time and please take action now to help Hawai'i move away from these high risk disposal systems.

Rafael Bergstrom

Surfrider Foundation, O'ahu Chapter Coordinator

Submitted on: 2/4/2018 6:54:55 PM

Testimony for EEP on 2/6/2018 8:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Morgan Bonnet		Support	No

#### Comments:

Dear Committee Members,

As a surfer, or an ocean "user" at large, I am always worried about the ocean water quality in Hawai'i. I usually avoid getting in the water after any heavy rain events and I signed up for the alerts provided by the state of Hawai'i to be informed of other factors that could lead to sewage water entering the ocean. And even by following these self imposed rules, I am constantly worried to go in the water with an open wound (reef cut for example) and I regularly get minor ear infections.

Clearly, there is a lot of factors that can lead to ocean water contamination, and Cesspools is high on the list. Especially considering that the Hawai'i soil, being "volcanic", is more poreous that most places on the mainland for example. Also, cesspools are a solution of the past, and having so many cesspools left in Hawai'i is a sign that the infrastucture needs to keep up with 2018!

Two years ago, I wiped out surfing in Waikiki and I landed chin first on the edge of my surfboard, which resulted in a 3/4 inch cut. I went to the ER and got it glued. The ER doctor, also a surfer, told me to wait at least a week before going back in the water, which I did. Even then, I got a staph infection that took over 2 months to get rid off, while using antibiotics. This unfortunate event, which happened in Waikiki, could have been the experience of a tourist. In fact, after talking with the hospital staff, I know for a fact that this happens to many tourists. It doesn't take a genius to see that associating Hawai'i's ocean water with "poop" water isn't exactly too good for tourism.

Please support HB2268	PI	ease	sup	port	HB	2268
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Mahalo,

Morgan

Submitted on: 2/5/2018 10:39:31 AM

Testimony for EEP on 2/6/2018 8:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ruby Pap		Support	No

#### Comments:

I support HB 2268. The thousands of cesspools across the state are polluting our waterways and drinking water. While there are some incentives in place for residences to convert, there are many barriers to conversion. So much so that we have not made much progress at all. We need a comprehensive report, all in one place, that identifies all the barriers, financing issues, and all the other issues involved so that we can move forward in a meaningful way! Thank you for your consideration. -Ruby Pap

<u>HB-2268</u> Submitted on: 2/5/2018 9:35:16 PM

Testimony for EEP on 2/6/2018 8:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Elizabeth Bishop		Support	No

Comments:

Submitted on: 2/5/2018 10:12:34 PM

Testimony for EEP on 2/6/2018 8:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dwamato	UHM	Support	No

#### Comments:

Dear Chair Lee, Vice Chair Lowen and members of the EEP Committee,

As an academic and private sector scientist, I am writing in strong support of HB2268. Non-point source discharge from cesspools in Hawaii is a serious threat to our coastal water quality. These wastewater systems leach untreated human waste, harmful pathogens and nutrient loads into nearby waters. Cesspools are a leading source of water pollution, and their effluent can contaminate drinking water sources, streams and oceans with disease-causing pathogens, algae-causing nutrients and other harmful substances. My research group at UHM has shown that wastewater from onsite sewage disposal systems can be detected nearly island wide on Oahu and at many other coastal areas in the state of Hawaii. The proposed amendments are needed to make sure that Act 120 and the cesspool upgrade tax credits are successful. So we support creating a working group to study the issue and come up with the best solutions for the state. Mahalo

Daniel Amato, PhD

Submitted on: 2/5/2018 10:59:01 PM

Testimony for EEP on 2/6/2018 8:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Nandoskar		Support	No

#### Comments:

Cesspools pollute the environment and ultimately our ocean ecosystem. Please support this bill which moves their eradication one step closer.

Mahalo for your consideration.

<u>HB-2268</u> Submitted on: 2/6/2018 9:23:38 AM

Testimony for EEP on 2/6/2018 8:35:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing	
june chee		Support	No	1

Comments: