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# Selective Service System

## Hawaii Headquarters

**Committee on Public Safety, Intergovernmental, and Military Affairs**

**--and--**

**Committee on Higher Education**

**Testimony of Andrew L. Pepper, State Director, U.S. Selective Service System**

**Thursday, February 8, 2018 (2:00 p.m.)**

### **SB 2622-- RELATING TO SELECTIVE SERVICE**

I am Andrew Pepper, State Director for the United States Selective Service System. My role is to ensure young men<sup>1</sup> in Hawaii ages 18 through 25 register with the Selective Service System, as required by law. This helps ensure that these young people do not lose valuable Federal benefits linked to the registration requirement and helps ensure that any future military draft is fair and equitable to the residents of Hawaii.

Many people ask me the basic question: “Why do we still have the Selective Service System?” It is a fair question with an easy answer: The Selective Service System is our Nation’s ultimate insurance policy in that it

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<sup>1</sup> Prior testimony opposing other Selective Service bills from the Hawaii Civil Rights Commission (“HCRC”) and the American Civil Liberties Union (“ACLU”) has asserted that the registration of only men violates the equal protection component of the due process clause. However, the U.S. Supreme Court held in 1981 that “male only” registration for Selective Service is *not* a violation of equal protection. See *Rostker v. Goldberg*, 453 U.S. 57 (1981) (<http://caselaw.findlaw.com/us-supreme-court/453/57.html>).

provides a ready source of personnel for national service should world events dictate the need for such personnel. The ability of the Selective Service System to rapidly deliver personnel for national service ensures that all potential adversaries understand both our national resolve and our national mobilization capabilities. Such “messaging” makes clear that military aggression by other governments would not result in a strategically positive outcome for those nations and their citizens. In other words, the deterrent effect of registration with the Selective Service System helps keep us safe and at peace.

The Selective Service System supports the passage of SB 2622 because it unquestionably will increase registration compliance in Hawaii. Only 73%-88% (depending on the year) of 18-year-old men in Hawaii have registered with Selective Service. This means that up to 27% of the young people in this critical age group are at risk of losing, *for life*, a host of federal benefits linked to the registration requirement. These benefits include: Federal employment, Federal student financial assistance, participation in Federally-funded job training programs, and eligibility for U.S. citizenship.

SB 2622 is not designed or intended to deny anyone access to student financial aid, a university education, or employment by the State. To the contrary, it is a good-faith attempt to create more opportunities for young people to discover that they are not in compliance with the registration

requirement of the Military Selective Service Act and, at that time, correct their non-compliance as part of their student financial aid or employment application process. Basically, SB 2622 is an attempt to create an additional safety net to help young people (who may be out of compliance with the Selective Service registration requirement) realize their status and be brought into compliance, thereby preserving their federal rights and benefits. A failure to preserve such rights can be heartbreaking (such as the loss of the right of naturalization by a person who has a deep desire to become a proud American citizen).

Thirty-one States around the Nation have already passed this type of legislation.<sup>2</sup> Passing SB 2622---to link eligibility for State supported student financial aid and governmental employment to Selective Service registration compliance--will further increase the registration compliance rate in Hawaii. It will also further remind young people in Hawaii of their civic and patriotic obligation to contribute to the defense of our country in a national emergency.

Registration with the Selective Service System is each citizen's contract with freedom.

The Selective Service System never seeks to impose burdens on our State government partners without reimbursing and supporting such efforts. For example, Hawaii already receives the highest *per capita* rate of any State

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<sup>2</sup> Please see attached list describing other States' legislation.

in reimbursement for implementing registration tied to driver's licensing. See Haw. Rev. Stat. §286-102.5. The Selective Service System also notes that it has developed close and effective working relationships with the thirty-one other states that have adopted similar legislation and has implemented computer processing systems designed to minimize the effort required by our State agency partners.

In closing, passing SB 2622 will help ensure that the youth of Hawaii do not lose valuable Federal benefits linked to the registration requirement, ensure that any future draft is fair and equitable as possible, and will help remind young people of their patriotic obligation to contribute to the defense of our country in a national emergency.

Thank you for the opportunity to submit this testimony.

Very Respectfully,

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Andrew L. Pepper  
State Director  
U.S. Selective Service System



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Re: SB419 SD2 HD1

The Solomon Amendment added Section 12(f) to the Military Selective Service Act in September 1982. Male students who have a requirement to register with Selective Service must satisfy that requirement as an eligibility precondition for receipt of Title 4 federal student financial aid. Title 4 aid includes such need-based programs as Guaranteed Student Loans and Pell Grants.

In November 1985, the Thurmond Amendment to the Defense Authorization Act established Title 5 U.S. Code § 3328, which requires Selective Service registration (of men who are required to register) as a prerequisite for appointment to most federal jobs.

Thirty-one states have laws that mirror, reinforce, or strengthen these two federal laws:

1. Alabama: Requires Selective Service registration to be eligible to enter institutions of higher learning. Registration is also required as a prerequisite for state employment and promotion.
2. Alaska: Requires men to register with the Selective Service System as a precondition to state employment, to receive state financial aid for school, and unique to Alaska, to receive a permanent fund dividend.
3. Arizona: Requires registration with the Selective Service System as a condition for state financial aid for school as well as a precondition for state employment.
4. Arkansas: Requires registration with the Selective Service System as a condition for receiving a state education loan, scholarship, or other state financial assistance. Also, requires compliance with the Military Selective Service Act as a precondition for state employment or enrollment in a public institution of higher learning.
5. California: Requires Selective Service registration as a precondition for state student financial aid.

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6. Colorado: Requires statement of compliance from male students born after December 31, 1959, before they are allowed to enroll at a state supported college or university.
7. Delaware: Requires Selective Service registration as a precondition for state employment and state student financial aid.
8. Florida: Requires Selective Service registration as a precondition for state student financial aid. Registration also required as a precondition for state employment.
9. Georgia: Requires Selective Service registration as a precondition for state student financial aid. Proof of registration also is a precondition for state employment.
10. Idaho: Young men must be registered with the Selective Service System to be eligible for state employment and state enrollment in post-secondary institutions, including financial aid for this schooling.
11. Illinois: Selective Service registration is a precondition for state student financial aid and later registration became a precondition for state employment.
12. Kentucky: State regulations require a statement of compliance with the Military Selective Service Act as a precondition for participating in the state educational loan program.
13. Louisiana: Louisiana has a law in which Selective Service registration is required for entry to any state school. Another law requires Selective Service registration to be eligible for certain classified and unclassified state civil service positions.
14. Maine: Requires Selective Service registration as a precondition for state student financial aid.
15. Massachusetts: Requires Selective Service registration as a precondition for state student financial aid.
16. Mississippi: Enacted two pieces of legislation. One requires Selective Service registration as a precondition for state student financial aid. The other requires registration as a precondition for state employment.
17. Missouri: Requires Selective Service registration as a precondition for state employment and state student financial aid.
18. Montana: Requires Selective Service registration as a precondition for state employment and state student financial aid.

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19. New Hampshire: Young men must be registered with Selective Service to be eligible for state employment and state enrollment in post-secondary institutions, including financial aid for this schooling.
20. New Jersey: Requires Selective Service registration as a precondition for state student financial aid.
21. North Carolina: Enacted two pieces of legislation: One requires Selective Service registration for certain veterans' dependents financial aid programs and another requires registration as a precondition for state employment and state educational assistance.
22. North Dakota: Selective Service registration is a precondition for student financial aid.
23. Ohio: Requires Selective Service registration as a precondition for state student financial aid. Requires any resident male not registered with Selective Service to pay out-of-state tuition rate.
24. Oklahoma: Requires Selective Service registration as a precondition for state student financial aid.
25. South Dakota: Requires Selective Service registration before acceptance to all state schools and as a precondition to state employment.
26. Tennessee: Requires Selective Service registration before acceptance to all state schools. Registration is also required as a precondition for state employment.
27. Texas: Requires men to be in compliance with Selective Service registration requirement to be eligible for state student financial assistance. State employment also is contingent upon Selective Service registration or exemption.
28. Utah: Requires Selective Service registration as a precondition for state student financial aid.
29. Virginia: Enacted two pieces of legislation. One requires Selective Service registration as a precondition for student financial aid. Another requires registration as a precondition for state employment.
30. West Virginia: Requires Selective Service registration as a precondition for state student financial aid and state employment.
31. Wisconsin: Requires Selective Service registration as a precondition for state employment and state student financial aid.



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Committee: Committee on Public Safety, Intergovernmental, and Military Affairs and  
Committee on Higher Education  
Hearing Date/Time: Tuesday, February 8, 2018, 2 p.m.  
Place: Conference Room 229  
Re: *Testimony of the ACLU of Hawai'i in opposition to S.B. 2622,  
Relating to Selective Service*

Dear Chair Nishihara, Chair Kahele, and Committee Members:

The American Civil Liberties Union of Hawai'i ("*ACLU of Hawai'i*") writes **in opposition** to S.B. 2622, which bans men ages 18-25, who fail to register with the selective service, from enrolling in a state-supported post-secondary educational institution, qualifying for state financial assistance, or being considered for county or state employment.

Forcing individuals into registering for military service, absent an extreme national emergency, poses a serious burden on civil liberties, including the right to freedom of association, the right to be free from involuntary servitude, and the right to privacy. Imposing and enforcing such burden should not be taken lightly. Should this measure pass into law, conscientious objectors who oppose military service due to religious or cultural belief may be barred from enrolling in a state college or university or obtaining public employment. This would mean that a man who objects to registration—and not just military service—based on his personal belief and participation in the Hawaiian sovereignty movement may be forced to choose between his cultural and political beliefs and pursuing an education.

Further, the Military Selective Service Act discriminates on the basis of sex, as only men are required to register. The justification proffered for this discrimination relies on archaic stereotypes about gender roles and women's capabilities — justifications that have no basis in reality and undermine the accomplishments of women who have valiantly served in our military, including those who have served, more recently, in combat roles. The ACLU of Hawai'i opposes all attempts to codify such discrimination into state law.

This measure could also have grave consequences for Deferred Action for Childhood Arrivals ("*DACA*") recipients. Although DACA recipients are required to register with the selective service, they may be afraid to do so out of fear that this information may be shared and used against them in the future. In light of recent actions by the President, such as the rescission of DACA, this fear is not unfounded.

In summary, withholding state educational and employment opportunities are both unrelated and simply the wrong way to enforce military selective service registration requirements. For these reasons, the ACLU of Hawai'i urges the Committee to defer this measure.

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Thank you for the opportunity to testify.

Sincerely,



Mateo Caballero  
Legal Director  
ACLU of Hawai'i

*The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for 50 years.*

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**SB-2622**

Submitted on: 2/7/2018 4:30:08 PM

Testimony for PSM on 2/8/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
De MONT R. D. CONNER	Ho'omanapono Political Action Committee (HPAC)	Oppose	Yes

Comments:

We STRONGLY OPPOSE this bill on the grounds that it may violate the First Amendment Clause of "Freedom of Association".

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**SB-2622**

Submitted on: 2/7/2018 5:06:42 PM

Testimony for PSM on 2/8/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachel L. Kailianu	Ho`omana Pono, LLC	Oppose	Yes

Comments:

In violation of our first amendment right of our males...