HAWAII OPERATING ENGINEERS
INDUSTRY STABILIZATION FUND

Affiliated AFL-CIO
OPEIU - 3 - AFL-CIO (3)

Uniting our strengths and working together for a better tomorrow.

Testimony of Hawaii Operating Engineers Industry Stabilization Fund

State of Hawaii Land Use Commission Department of Business, Economic Development & Tourism

Docket A17-804
Hawaiian Memorial Life Plan
June 23, 2020

Dear Land Use Commissioners:

My name is Pane Meatoga III and I am the Community Liaison representing the Hawaii Operating Engineers Industry Stabilization Fund (HOEISF). We are a labor management fund representing 3500 unionized members in the heavy engineering site work and 500 general contractors specializing in heavy site and vertical construction.

HOEISF appreciates the Land Use Commission (LUC) resuming the evidentiary hearings for the Hawaiian Memorial Park's (HMP) proposed expansion.

HMP has made good faith efforts to address cultural and environmental concerns and expressions of public sentiment regarding this project. For example, HMP will establish a 14.5-acre cultural preserve for the protection of the Kawaewae Heiau and a conservation easement precluding future development. It will also implement a voluntary management plan to protect the habitat for endangered damsel flies. Indicative of HMP's commitment to community concerns, a recent HMP poll found that 64% of Oahu resident's support HMP's expansion plans with only 7% in opposition.

Hawaii like all of the United States of America, is in an economic recession due to the COVID-19 pandemic. With over 220,000 unemployed Hawaii residents, now is the time to expedite dockets that will provide local jobs and solid investments for the people of Hawaii. This project and the due diligence executed by the HMP to address all concerns of the immediate community and the demands the state has for burial plots, should move forward.

Thank you for the opportunity for us to testify in support of this project.

Hawaii Operating Engineers Industry Stabilization Fund
Pane Meatoga III
Community Liaison
pane@hoeisf.com

Derrickson, Scott A

From: Kera Wong-Miyasato <kerawm@gmail.com>
Sent: Monday, June 22, 2020 9:59 PM
To: DBEDT LUC
Subject: [EXTERNAL] Hawaiian Memorial Park Testimony

To whom it may concern,

Please consider the following testimony opposing the expansion of Hawaiian Memorial Park into conservation land.

Excavating the hillside in question will cause rockfall hazards and flooding concerns for the residents who live near, putting both human and real estate at risk of harm.

As for the issue of space, perhaps Hawaiian Memorial Park has not thought deeply enough about other solutions besides expansion. In order to conduct business successfully in Hawaii, it is important to act with respect towards local values. Many Hawaii residents seek to preserve what little native land, habitats, and species remain. We only ask that mainland companies respect this.

Thank you for your consideration,

Kera Wong-Miyasato (she/her)
MBA Candidate | Shidler College of Business
Admissions Processing Specialist | University of Hawaii at Mānoa Office of Admissions
2600 Campus Road, QLC 001 | Honolulu, HI 96822

Derrickson, Scott A

From: Alec Wong-Miyasato <alecwm@hawaii.edu>
Sent: Monday, June 22, 2020 9:25 PM
To: DBEDT LUC
Subject: [EXTERNAL] STRONGLY OPPOSED TO A17-804 HAWAIIAN MEMORIAL LIFE PLAN, LTD Petition for district boundary amendment, June 24, 2020, 9:00 A.M.

Dear Chair Scheuer and Members of the State Land Use Commission,

I am writing to express my **STRONG OPPOSITION** to the proposed expansion by Hawaiian Memorial Park (HMP) in Kaneohe.

As a long-time resident of Kaneohe and as an environmental scientist, I view the area of the Oneawa hills as an important part of Kaneohe. Changing the designation of the land from conservation to urban will undoubtedly lead to deforestation of what little forest we have left that is makai of the H3. With the increasing threat of climate change and increasingly severe storms, I am concerned that valuable flood protection would be lost, leading to the loss of local housing. Also, with the State of Hawaii trying to become carbon neutral, losing a valuable carbon sink like the forested area would only negatively impact that goal. Lastly, I have worked with programs trying to conserve the endangered Damselfly. I am opposed to any idea that threatens existing habitat because, in my line of work, too much time and effort are spent trying to recreate lost habitat. If that habitat currently exists, it will do no good by destroying it.

Derrickson, Scott A

From: Kalma Wong <kalmaw@gmail.com>
Sent: Monday, June 22, 2020 4:49 PM
To: DBEDT LUC
Subject: [EXTERNAL] STRONGLY OPPOSED to A17-804 Hawaiian Memorial Life Plan, LTD Petition for district boundary amendment, June 24, 2020, 9:00 a.m.

Dear Chair Scheuer and Members of the State Land Use Commission,

I am writing to express my **strong opposition** to the proposed expansion by Hawaiian Memorial Park (HMP) in Kaneohe.

I am a long-time resident of Kaneohe. To anyone who has lived in the area, the Oneawa hills behind the Pikoiloa subdivision are a familiar and permanent fixture of Kaneohe. If you allow the proposed designation change from conservation to urban, you will also allow the irreparable desecration of Kaneohe's landscape. In fact, this area was described by the Land Use Commission as "…an undeveloped natural wilderness that constitutes a part of the Ko'olau Greenbelt."

I am opposed to the district boundary amendment because the following:

- A significant portion of the hill will be excavated. HMP's EIS states, "The majority of the hillside on the western end of the expansion site would be excavated reducing it up to 40 feet in height; however, the areas near the top of the hillside would reduce it up to 100 feet in height."
- A substantial area of the hillside will be affected according to the EIS: "The estimated area of disturbance for earth moving activities is about 33.6 acres."
- The safety of the very large (up to 25 feet) retaining walls that will be needed is a serious concern.
- There is a potential for rockfall hazards. No computer simulation is 100% accurate in determining rockfall potential. For instance, the reliability of rockfall analysis is dependent upon the number of simulations conducted.
- There is a potential for flooding in the surrounding areas. According to the EIS, "…an additional 12,700 cubic feet (cf) of stormwater would be generated…" This is not surprising when the dense vegetation that would intercept and reduce runoff volume and rates will be removed, yet impervious areas that increase runoff such as roadways will be increased. The detention and retention basins will be inadequate when a storm event that is greater than the anticipated 100-year, 1-hour event occurs.
- The proposed disturbance area is extremely close to the habitat of the endangered Damselfly.
- HMP is misleading the public in their insistence that they must excavate the hill in order to increase cemetery space, as other cemeteries have recently expanded.

Finally, the survey conducted by SMS in March does not accurately reflect the views of the residents of Kaneohe or of Oahu at large. A "randomly selected" sample does not mean it is a representative one. In their report, SMS stated that they conducted a "web survey," but they did not explain how and where they got the list of email addresses. Many people, particularly the elderly, do not have their own email addresses or they do not use email regularly. Others may have multiple addresses that may or may not be used on a regular basis.

In addition, the background information provided by SMS in the survey did not point out that the area is ALREADY zoned as conservation land and that HMP proposes to change the area to urban. It also does not give specific information on how much of the hill will be excavated. The survey only provides an aerial shot of the proposed change but does not provide a mock-up of what the area will look like from the street level or any other area that has a significant view of the hill. The wording of the questions on the survey was biased in favor of HMP.

In other words, this survey and its results should not be considered in the decision making of this issue.

For the reasons above, I ask that you **oppose** HMP's proposal.

Sincerely,

Kalma K. Wong, PhD

To: Land Use Commission, State of Hawaii

RE: Public Testimony OPPOSING the proposed changes by the Hawaiian Memorial Park

Subject: Docket A17-804
Hawaiian Memorial Park

Date submitted: June 22, 2020

I have been a Kaneohe resident for many years. I OPPOSE the proposed expansion of the Memorial Park. I understand that there must be adequate burial locations for the loved ones, however, the expansion should not be done at the expense of the environment and the residents who are still living here. The land should remain a conservation district for the following reasons:

a. Archeological sites deemed "historically significant" should not be disturbed or destroyed.

b. The natural habitat of the endangered Blackline Hawaiian Damselfly will be negatively affected.

c. Flooding is extremely heavy in Kaneohe especially during the winter months. A Finding of Fact identified by the Land Use Commission in 2009 stated that the risk of runoff and erosion are extremely great. This threat has not changed since 2009 and still exists with the new proposal.

d. According to the 2009 Findings of Fact, the removal of the secondary forest would negatively affect the Kawa Stream watershed changing the runoff and chemical loads flowing into this water source. This in turn could impact the health of the residents relying on this source of water. Again, this threat has not changed since 2009 and still exists with the new proposal.

e. The new proposal to dig up large parts of the hillside and flattening it is a more invasive plan than originally proposed. If the possibility of flooding and erosion were identified as concerns in 2009, these new plans should be of greater concern since they are more ambitious thus increasing the risks and liability to the community today. Remember, much of the development is in the "undetermined risk area" for flooding. This will never change.

f. Although there is a proposed retaining wall with a minimum 7 feet and possibly as high as 25 feet to be built on the land, the problem is that the land will have been artificially manipulated. What assurances are there that a wall this high will be stable when flooding is extensive? More likely than not, the proposed retention and detention basins will not be able to withstand a one-hour storm with 4.5 inches of rain falling per hour.

People who live in Kaneohe know that heavy rain can fall for hours in a day, for several consecutive days, especially several times during the winter months. When such a catastrophe occurs, not "if," because it will happen, consider when the repairs when be made maybe after the rainy season, the time required for repair and the costs involved. What are residents expected to do in the interim period?

For example, the Pali Highway was closed for about 9 months for emergency repairs due to landslides, mudslides and falling boulders as result of heavy rainfall in February 2019. According to the HI Department of Transportation, it cost $21 million dollars with the state paying about 20 percent of the total or $4.2 million and the feds paying the rest. If the proposed retaining wall fails or if there is severe flooding into the residential areas, repairs can be extensive, lengthy and costly and the federal government will not be footing the bill.

g. Homeowners living in Pikoiloa will have a graveyard within 150 feet of their home thus depreciating their home value. Building a high retaining wall surrounding the potential flood areas will also decrease the resale value of the homes in that neighborhood. The consequences to the community can be extremely extensive and impactful and must be thoroughly considered.

Bottom line, if flooding occurs, who will pay for the damages? Who will be liable for the destruction caused by flooding to the homes in this area? What recourse will the affected homeowners have when their homes decrease in value while everyone else's increase in value? There are too many unanswered questions and too much unknowns. When studies show that the Memorial Park's projects have the potential to destroy the residential neighborhoods, the environment and even archeological sites, the Land Commission must make every effort to protect this conservation district and leave it unchanged. Until all of the concerns can be adequately addressed, leave the land alone.

The LUC's responsibility under Chapter 205-2 is to oversee Hawaii's land use. Land deemed in the 'conservation district' category are supposed to be protected including, among other things, watersheds, and water sources, preserving the scenic and historic areas, conserving endemic plants, fish, and wildlife, and preventing floods and soil erosion, or in the present state of use, if retained, would enhance the present or potential value of abutting or surrounding communities.

The proposed plan to expand the Memorial Park violates the basic intent of a conservation district as stated in our law. I hope the LUC takes its responsibility seriously. We, the living here in Kaneohe, must have our rights preserved too.

Mahalo for your consideration,

Teresa Chao
Resident of Kaneohe

To: Hawaii Land Use Commission

From: Kathleen O'Malley

Re: Public Testimony
Docket A17-804, Hawaiian Memorial Park

Dear Land Use Commissioners,

I listened for two full days of Petitioner testimony at your last hearing and I appreciate your commitment to making a wise decision on the best use of the land that Hawaiian Memorial Park is proposing to alter permanently. If their project is approved, we will not be able to undo one hundred foot cuts into the land, 40 foot landfills, the impact to the watershed and Kaneohe Bay, and whatever other unintended consequences may occur. Keeping this land in conservation seems the most prudent path to take for the future of our island.

I have written to you many times already but my concerns increased as I heard various expert witnesses contradicting themselves. Do we know where the 50,000 cubic yards of fill is going? The endangered blackline damselfly population lives right below the proposed cuts into the mountain. Will the safety valves that are supposed to maintain the seep to the damselflies be above ground or underground? And if they are not above ground how will they be managed? One expert said they would be accessible but another expert said they would be buried under many feet of dirt. Steve Montgomery stated that the proposed mitigation would be beneficial for the damselflies but when asked what would happen if the boundary amendment was not approved, he said he "hoped" HMP would still protect the population.

Jay Morford stated that he felt HMP were good stewards of the land and that is why they are offering the cultural preserve and easement in exchange for the boundary amendment. Unfortunately, HMP does not seem to have a good track record of stewardship. If they were good stewards, why would their botany expert report that the heiau was more overgrown now than it was 10 years ago when the first EIS was conducted? Why hasn't it been maintained? Why should we have to hope that HMP would protect the damselfly population even if their petition is denied? They have known of this endangered species on their property for the last two years and all they have done is put up 'No Trespassing" signs.

If HMP is only willing to be a good steward of the land **IF** they get the boundary amendment that should make us all very cautious. In fact, the Cultural Preserve they are offering is wholly contingent on the cemetery expansion. Nobody that I know in my neighborhood is against the Cultural Preserve or the
Cultural Easement. I truly believe that would be a good thing for our community. But why should it be used as a bargaining chip if, indeed, they want to be good stewards of the land?

I keep coming back to two big questions: 1) Is allowing HMP to drastically change the hillside worth all the risks, given that so much of project logistics are still unknown? Per one of their own experts, the grading plan is not even developed yet; and, 2) Is this truly the best use of this land when the cost of HMP burial plots will be so high (refer to letter from Mr. and Mrs. Perkins) and the number of bodies/urns allowed per plot is so low. Per testimony that I heard, it appears that they won't even consider changing their burial practices to be more environmentally and consumer friendly.

I know you are faced with a difficult decision. I sincerely hope that you make a decision that is pono.

Sincerely,

Kathleen A. O'Malley

Derrickson, Scott A

From:	Paulette Tam <tampaulette@gmail.com>
Sent:	Monday, June 22, 2020 5:40 AM
To:	DBEDT LUC
Subject:	[EXTERNAL] June 24-25, 2020 LUC Agenda Notice - Hawaiian Memorial Park Cemetery-Testimony by Paulette-A Tam
Attachments:	CRPT-114hrpt721(1).pdf; PLAW-114publ221(1)(1).pdf

Aloha and Peace Be With You Land Use Commissioners:

My name is Paulette-A Tam former Kaneohe Neighborhood Board Member and Sub District Representative from 1989 to 2005 with term breaks. Committee Chairman for Public Health, Safety, Education, Windward Military Advisory, Publicity, Treasurer and Assistant Secretary. Former Member of Ko'olaupoko Hawaiian Civic Club from 2010 to 2013 and Recording Secretary from 2011 to 2012. Today I represent myself.

I support the Hawaiian Memorial Park Cemetery Expansion Plan intent and in its entirety for these reasons:

January 16, 2020
Kaneohe Neighborhood Board members regular meeting Minutes

Resident/Community Concerns
Hawaiian Memorial Cemetery:
"Resident Ben Baniaga noted that in 1958 it was designated as a cemetery."

Therefore under these special circumstances mentioned by Resident Baniaga, I support Hawaiian Memorial Park Cemetery expansion with certain restrictions such as preservation of open space that no mausoleums and other upright markers be built and no residential homes on conservation land.

Note that Resident Ben Baniaga is a former Kaneohe Neighborhood board member.

Kaneohe NB January Minutes

January 2020 Minutes

" RESIDENT/COMMUNITY CONCERNS
Hawaiian Memorial Cemetery: A resident suggested visiting savekaneohe.org for more information pertaining to saving 31 acres of the largest watershed including heiaus and an endangered species from the Hawaiian Memorial Cemetery Expansion project. He reported that the Land Use Commission public hearing is on Wednesday, January 22, 2020 at the Ko'olau Ballroom from 9:30 a.m. to 4:00 p.m. to discuss the expansion on conservation land. Resident Baniaga noted that in 1958 it was designated as a cemetery. The resident responded that the cemetery is looking to develop on conservation land and Chair Radke noted that they have the right to protect the land."

Additional Information for Reference Resource Use:

Schatz - H. Rept. 114-721 - Native Act/Congress.gov/Library of Congress

2 Attachments below:

Please support the Hawaiian Memorial Park Cemetery.

114TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPT. 114–721
Part 1

NATIVE ACT

SEPTEMBER 6, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany S. 1579]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (S. 1579) to enhance and integrate Native American tourism, empower Native American communities, increase coordination and collaboration between Federal tourism assets, and expand heritage and cultural tourism opportunities in the United States, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 1579 is to enhance and integrate Native American tourism, empower Native American communities, increase coordination and collaboration between Federal tourism assets, and expand heritage and cultural tourism opportunities in the United States.

BACKGROUND AND NEED FOR LEGISLATION

During the first six months of 2015, the Department of Commerce estimated there were over 36 million overseas travelers to the United States. One out of 18 Americans is employed by a travel or tourism related business.[1]

[1] 2015 Top Markets Report Travel and Tourism: A Market Assessment Tool for U.S. Exports. Department of Commerce, International Trade Administration, Industry & Analysis (2015) at 3.

In 2014, tourism in the United States was a $221 billion industry.[2] The American Indian and Alaska Native Tourism Association cite a growing interest in Indian Country as a tourist destination. According to the Department of Commerce surveys, more than 1.65 million overseas travelers visited Indian Country in 2014, an increase of ten percent from 2013, with most travelers coming from China, the United Kingdom, and France.[3]

Many Native-owned businesses and tribes use cultural tourism as an economic development strategy. For example, the Chickasaw Nation owns and operates the Chickasaw Cultural Center, which has been an integral part of tourism in the state of Oklahoma. In addition, tribes like the Standing Rock Sioux Tribe conduct hundreds of tours on their reservations annually.

S. 1579 is intended to enhance Native American tourism through better coordination and collaboration among federal agencies that have tourism programs, without authorizing any new appropriations. The bill is supported by the National Congress of American Indians, the U.S. Chamber of Commerce, the Inter-Tribal Council of the Five-Civilized Tribes, the American Indian Alaska Native Tourism Association and others.

COMMITTEE ACTION

S. 1579 was introduced on June 16, 2015, by Senator Brian Schatz (D–HI). It passed the Senate with an amendment by unanimous consent on April 25, 2016. The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian, Insular and Alaska Native Affairs. In addition, the bill was referred to the Committees on Energy and Commerce and House Administration. On July 12, 2016, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered and the bill was ordered favorably reported by unanimous consent on July 13, 2016.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation and Section 308(a) of the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for the bill from the Director of the Congressional Budget Office:

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[2] U.S. Department of Commerce, International Trade Administration, National Travel & Tourism Office (2015). Accessed at: http://travel.trade.gov/outreachpages/downloadXdataXtable/Overseas.pdf.

[3] *Id.*

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 29, 2016.

Hon. ROB BISHOP,
Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1579, the NATIVE Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Reese.

Sincerely,

KEITH HALL.

Enclosure.

S. 1579—NATIVE Act

S. 1579 would direct the Secretaries of Commerce and the Interior and other federal agencies that administer programs related to recreation and tourism to update existing plans to promote tourism among Indian communities. The bill would require those Secretaries to report to the Congress on efforts to support Indian tribes' tourism-related programs and clarify that tribal organizations are eligible to use certain federal grants for such purposes.

Based on information from the Bureau of Indian Affairs and other affected agencies about the extent of existing efforts to promote tourism on tribal lands, CBO estimates that enacting S. 1579 would not significantly affect the federal budget. Because tourism-related plans and programs administered by most federal agencies already address such efforts, CBO expects that any costs incurred by agencies to modify those plans and programs to meet the specific requirements of S. 1579 would not exceed $500,000; any such increase in spending would be subject to the availability of appropriated funds.

In addition CBO expects that enacting S. 1579 could increase direct spending for other entities with mandatory funding authority, such as the Corporation for Travel Promotion. Because the bill could affect direct spending, pay-as-you-go procedures apply; however, CBO estimates that any such effects would be negligible. Enacting S. 1579 would not affect revenues.

CBO estimates that enacting S. 1579 would not increase net direct spending or on-budget deficits by more than $5 billion in any of the next four consecutive 10-year periods beginning in 2027.

S. 1579 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On November 13, 2015, CBO transmitted a cost estimate for S. 1579 as ordered reported by the Senate Committee on Indian Affairs on October 7, 2015. The two versions of S. 1579 are similar and CBO's estimates of the budgetary effects are the same.

The CBO staff contact for this estimate is Robert Reese. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of Rule XIII, the general performance goal or objective of this bill is to enhance and integrate Native American tourism, empower Native American communities, increase coordination

and collaboration between Federal tourism assets, and expand heritage and cultural tourism opportunities in the United States.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of Rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

This bill makes no changes to existing law.

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

August 24, 2016

The Honorable Candice Miller
Chairman
Committee on House Administration
1309 Longworth HOB
Washington, DC 20515

Dear Madam Chairman:

On July 13, 2016, the Committee on Natural Resources favorably reported S. 1579, Native American Tourism and Improving Visitor Experience Act, by unanimous consent. This bill was referred primarily to the Committee on Natural Resources, and in addition to the Committees on House Administration and Energy and Commerce. My staff has forwarded the reported text to your committee for review.

Based on this text, I ask that you allow the Committee on House Administration to be discharged from further consideration of the bill so that it may be scheduled by the Majority Leader. This discharge in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on House Administration be represented on the conference committee. Finally, I would be pleased to include this letter and any response in the bill report filed by the Committee on Natural Resources to memorialize our understanding, as well as in the Congressional Record.

Thank you for your consideration of my request, and I look forward to further opportunities to work with you this Congress.

Sincerely,

Rob Bishop
Chairman
Committee on Natural Resources

cc: The Honorable Paul D. Ryan, Speaker
The Honorable Kevin McCarthy, Majority Leader
The Honorable Raul Grijalva, Ranking Member, Committee on Natural Resources
The Honorable Thomas J. Wickham, Jr., Parliamentarian

Congress of the United States
House of Representatives
COMMITTEE ON HOUSE ADMINISTRATION
1309 Longworth House Office Building
Washington, D.C. 20515-6157
(202) 225-8281
http://cha.house.gov

August 24, 2016

The Honorable Rob Bishop
Chairman
Committee on Natural Resources
1324 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter regarding S. 1579. As you know, the bill was received in the House of Representatives on June 15, 2015, and referred primarily to the Committee on Natural Resources and in addition to the Committee on Energy and Commerce and the Committee on House Administration. The bill seeks to enhance and integrate Native American tourism, empower Native American communities, increase coordination and collaboration between Federal tourism assets, and expand heritage and cultural tourism opportunities in the United States. On July 13, 2016, your Committee ordered S. 1579 to be reported by unanimous consent.

The Committee on House Administration agrees to discharge from further consideration of S. 1579 to expedite floor consideration. It is the understanding of the Committee on House Administration that forgoing action on S. 1579 will not prejudice the Committee with respect to appointment of conferees or any future jurisdictional claim. I request that your letter and this response be included in the bill report filed by your Committee, as well as in the Congressional Record.

Sincerely,

Candice S. Miller

Candice Miller
Chairman
Committee on House Administration

cc: The Honorable Paul D. Ryan, Speaker
The Honorable Kevin McCarthy, Majority Leader
The Honorable Raul Grijalva, Ranking Member, Committee on Natural Resources
The Honorable Robert Brady, Ranking Member, Committee on House Administration
The Honorable Thomas J. Wickham, Jr., Parliamentarian

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

September 6, 2016

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
2125 Rayburn HOB
Washington, DC 20515

Dear Mr. Chairman:

On July 13, 2016, the Committee on Natural Resources favorably reported S. 1579, Native American Tourism and Improving Visitor Experience Act, by unanimous consent. This bill was referred primarily to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce and House Administration. My staff has forwarded the reported text to your committee for review.

Based on this text, I ask that you allow the Committee on Energy and Commerce to be discharged from further consideration of the bill so that it may be scheduled by the Majority Leader. This discharge in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on Energy and Commerce be represented on the conference committee. Finally, I would be pleased to include this letter and any response in the bill report filed by the Committee on Natural Resources to memorialize our understanding, as well as in the Congressional Record.

Thank you for your consideration of my request, and I look forward to further opportunities to work with you this Congress.

Sincerely,

Rob Bishop
Chairman
Committee on Natural Resources

cc: The Honorable Paul D. Ryan, Speaker
The Honorable Kevin McCarthy, Majority Leader
The Honorable Raul Grijalva, Ranking Member, Committee on Natural Resources
The Honorable Thomas J. Wickham, Jr., Parliamentarian

FRED UPTON, MICHIGAN
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FOURTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225-2927
Minority (202) 225-3641

September 6, 2016

The Honorable Rob Bishop
Chairman
Committee on Natural Resources
1324 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Bishop:

I write in regard to S. 1579, NATIVE Act, which was recently ordered to be reported by the Committee on Natural Resources. As you are aware, the bill also was referred to the Committee on Energy and Commerce. I wanted to notify you that the Committee on Energy and Commerce will forgo action on S. 1579 so that it may proceed expeditiously to the House floor for consideration.

This is done with the understanding that the Committee on Energy and Commerce's jurisdictional interests over this and similar legislation are in no way diminished or altered.

I would appreciate your response confirming this understanding with respect to S. 1579, and ask that a copy of our exchange of letters on this matter be included in the Congressional Record during consideration of the bill on the House floor.

Sincerely,

Fred Upton
Chairman

○

Public Law 114–221
114th Congress

An Act

To enhance and integrate Native American tourism, empower Native American communities, increase coordination and collaboration between Federal tourism assets, and expand heritage and cultural tourism opportunities in the United States.

Sept. 23, 2016
[S. 1579]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Native American Tourism and Improving Visitor Experience Act.
25 USC 4351 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Tourism and Improving Visitor Experience Act" or the "NATIVE Act".

25 USC 4351.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to enhance and integrate Native American tourism—

(A) to empower Native American communities; and

(B) to advance the National Travel and Tourism Strategy;

(2) to increase coordination and collaboration between Federal tourism assets to support Native American tourism and bolster recreational travel and tourism;

(3) to expand heritage and cultural tourism opportunities in the United States to spur economic development, create jobs, and increase tourism revenues;

(4) to enhance and improve self-determination and self-governance capabilities in the Native American community and to promote greater self-sufficiency;

(5) to encourage Indian tribes, tribal organizations, and Native Hawaiian organizations to engage more fully in Native American tourism activities to increase visitation to rural and remote areas in the United States that are too difficult to access or are unknown to domestic travelers and international tourists;

Grants.
Loans.

(6) to provide grants, loans, and technical assistance to Indian tribes, tribal organizations, and Native Hawaiian organizations that will—

(A) spur important infrastructure development;

(B) increase tourism capacity; and

(C) elevate living standards in Native American communities; and

(7) to support the development of technologically innovative projects that will incorporate recreational travel and tourism information and data from Federal assets to improve the visitor experience.

25 USC 4352.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGENCY.—The term "agency" has the meaning given the term in section 551 of title 5, United States Code.

(2) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) NATIVE HAWAIIAN ORGANIZATION.—The term "Native Hawaiian organization" means a nonprofit organization—

(A) that serves the interests of Native Hawaiians;

(B) in which Native Hawaiians serve in substantive and policymaking positions; and

(C) that is recognized for having expertise in Native Hawaiian culture and heritage, including tourism.

(4) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

Plans.
25 USC 4353.

SEC. 4. INTEGRATING FEDERAL TOURISM ASSETS TO STRENGTHEN NATIVE TOURISM OPPORTUNITIES.

(a) SECRETARY OF COMMERCE AND SECRETARY OF THE INTERIOR.—The Secretary of Commerce and the Secretary of the Interior shall update the respective management plans and tourism initiatives of the Department of Commerce and the Department of the Interior to include Indian tribes, tribal organizations, and Native Hawaiian organizations.

(b) OTHER AGENCIES.—The head of each agency that has recreational travel or tourism functions or complementary programs shall update the respective management plans and tourism strategies of the agency to include Indian tribes, tribal organizations, and Native Hawaiian organizations.

(c) NATIVE AMERICAN TOURISM PLANS.—

(1) IN GENERAL.—The plans shall outline policy proposals—

(A) to improve travel and tourism data collection and analysis;

(B) to increase the integration, alignment, and utility of public records, publications, and Web sites maintained by Federal agencies;

(C) to create a better user experience for domestic travelers and international visitors;

(D) to align Federal agency Web sites and publications;

(E) to support national tourism goals;

(F) to identify agency programs that could be used to support tourism capacity building and help sustain tourism infrastructure in Native American communities;

(G) to develop innovative visitor portals for parks, landmarks, heritage and cultural sites, and assets that showcase and respect the diversity of the indigenous peoples of the United States;

(H) to share local Native American heritage through the development of bilingual interpretive and directional signage that could include or incorporate English and the local Native American language or languages; and

(I) to improve access to transportation programs related to Native American community capacity building

for tourism and trade, including transportation planning for programs related to visitor enhancement and safety.

(2) CONSULTATION WITH INDIAN TRIBES AND NATIVE AMERICANS.—In developing the plan under paragraph (1), the head of each agency shall consult with Indian tribes and the Native American community to identify appropriate levels of inclusion of the Indian tribes and Native Americans in Federal tourism activities, public records and publications, including Native American tourism information available on Web sites.

(d) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary of Commerce, shall enter into a memorandum of understanding or cooperative agreement with an entity or organization with a demonstrated record in tribal communities of defining, introducing, developing, and sustaining American Indian, Alaska Native, and Native Hawaiian tourism and related activities in a manner that respects and honors native traditions and values. Consultation. Memorandum. Contracts.

(2) COORDINATION.—The memorandum of understanding or cooperative agreement described in paragraph (1) shall formalize a role for the organization or entity to serve as a facilitator between the Secretary of the Interior and the Secretary of Commerce and the Indian tribes, tribal organizations, and Native Hawaiian organizations—

(A) to identify areas where technical assistance is needed through consultations with Indian tribes, tribal organizations, and Native Hawaiian organizations to empower the Indian tribes, tribal organizations, and Native Hawaiian organizations to participate fully in the tourism industry; and Consultation.

(B) to provide a means for the delivery of technical assistance and coordinate the delivery of the assistance to Indian tribes, tribal organizations, and Native Hawaiian organizations in collaboration with the Secretary of the Interior, the Secretary of Commerce, and other entities with distinctive experience, as appropriate.

(3) FUNDING.—Subject to the availability of appropriations, the head of each Federal agency, including the Secretary of the Interior, the Secretary of Commerce, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Health and Human Services, and the Secretary of Labor shall obligate any funds made available to the head of the agency to cover any administrative expenses incurred by the organization or entity described in paragraph (1) in carrying out programs or activities of the agency.

(4) METRICS.—The Secretary of the Interior and the Secretary of Commerce shall coordinate with the organization or entity described in paragraph (1) to develop metrics to measure the effectiveness of the entity or organization in strengthening tourism opportunities for Indian tribes, tribal organizations, and Native Hawaiian organizations. Coordination.

(e) REPORTS.—Not later than 1 year after the date of enactment of this Act, and occasionally thereafter, the Secretary of the Interior and the Secretary of Commerce shall each submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes—

(1) the manner in which the Secretary of the Interior or the Secretary of Commerce, as applicable, is including Indian tribes, tribal organizations, and Native Hawaiian organizations in management plans;

(2) the efforts of the Secretary of the Interior or the Secretary of Commerce, as applicable, to develop departmental and agency tourism plans to support tourism programs of Indian tribes, tribal organizations, and Native Hawaiian organizations;

(3) the manner in which the entity or organization described in subsection (d)(1) is working to promote tourism to empower Indian tribes, tribal organizations, and Native Hawaiian organizations to participate fully in the tourism industry; and

(4) the effectiveness of the entity or organization described in subsection (d)(1) based on the metrics developed under subsection (d)(4).

25 USC 4354.

SEC. 5. NATIVE AMERICAN TOURISM AND BRANDING ENHANCEMENT.

(a) IN GENERAL.—The head of each agency shall—

(1) take actions that help empower Indian tribes, tribal organizations, and Native Hawaiian organizations to showcase the heritage, foods, traditions, history, and continuing vitality of Native American communities;

(2) support the efforts of Indian tribes, tribal organizations, and Native Hawaiian organizations—

(A) to identify and enhance or maintain traditions and cultural features that are important to sustain the distinctiveness of the local Native American community; and

(B) to provide visitor experiences that are authentic and respectful;

(3) provide assistance to interpret the connections between the indigenous peoples of the United States and the national identity of the United States;

(4) enhance efforts to promote understanding and respect for diverse cultures and subcultures in the United States and the relevance of those cultures to the national brand of the United States; and

Memorandum.
Partnerships.

(5) enter into appropriate memoranda of understanding and establish public-private partnerships to ensure that arriving domestic travelers at airports and arriving international visitors at ports of entry are welcomed in a manner that both showcases and respects the diversity of Native American communities.

(b) GRANTS.—To the extent practicable, grant programs relating to travel, recreation, or tourism administered by the Commissioner of the Administration for Native Americans, Chairman of the National Endowment for the Arts, Chairman of the National Endowment for the Humanities, or the head of an agency with assets or resources relating to travel, recreation, or tourism promotion or branding enhancement for which Indian tribes, tribal organizations, or Native Hawaiian organizations are eligible may be used—

(1) to support the efforts of Indian tribes, tribal organizations, and Native Hawaiian organizations to tell the story of Native Americans as the First Peoples of the United States;

(2) to use the arts and humanities to help revitalize Native communities, promote economic development, increase livability, and present the uniqueness of the United States to visitors in a way that celebrates the diversity of the United States; and

(3) to carry out this section.

(c) SMITHSONIAN.—The Advisory Council and the Board of Regents of the Smithsonian Institution shall work with Indian tribes, tribal organizations, Native Hawaiian organizations, and nonprofit organizations to establish long-term partnerships with non-Smithsonian museums and educational and cultural organizations— Partnerships.

(1) to share collections, exhibitions, interpretive materials, and educational strategies; and

(2) to conduct joint research and collaborative projects that would support tourism efforts for Indian tribes, tribal organizations, and Native Hawaiian organizations and carry out the intent of this section.

SEC. 6. EFFECT. 25 USC 4355.

Nothing in this Act alters, or demonstrates congressional support for the alteration of, the legal relationship between the United States and any American Indian, Alaska Native, or Native Hawaiian individual, group, organization, or entity.

Approved September 23, 2016.

LEGISLATIVE HISTORY—S. 1579:

HOUSE REPORTS: No. 114–721, Pt. 1 (Comm. on Natural Resources).
SENATE REPORTS: No. 114–201 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 162 (2016):
Apr. 25, considered and passed Senate.
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