

December 1, 2022

House of Representatives
Speaker Scott K. Saiki
State Capitol Building
415 S. Beretania Street, Room 431
Honolulu, Hawaii 96813

Re: Commission to Improve Standards of Conduct

Dear Speaker Saiki:

On behalf of the members of the Commission to Improve Standards of Conduct (Commission), I am pleased to present to the House of Representatives our Final Report as requested by H.R. No. 9, Regular Session of 2022.

After several months of work, including extensive open discussion with the public and certain agencies and organizations, the Commission has completed your request to improve the areas of ethics, campaign finance, open meetings, and fraud and criminal prosecution laws. The Final Report documents the background of the Commission, the scope and methodology of its work, and public meeting minutes and recommends 31 proposals to the Legislature.

Please accept this Final Report and make it available online for public review as appropriate. We strongly encourage legislators to examine our recommendations and consider introducing our legislative proposals in the Regular Session of 2023.

Please join me in expressing my appreciation for my fellow commissioners, who diligently and willingly did the work required of the Commission at each step of the way. In addition, I want to acknowledge the public testifiers who provided input and individuals and agencies that contributed to each of the Commission meetings and helped guide the Commission in the development of the Final Report. The Commission believes that the extensive and thorough work that has gone into this effort, including the work undertaken for the Interim Report submitted to the House on March 31, 2022, will serve as a powerful guide in reshaping Hawaii's laws and legislative process in the areas of ethics, corruption, elections, and government operations.

If you have any questions or need further assistance please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Daniel R. Foley". The signature is written in a cursive, flowing style with a large, sweeping 'F' and 'y'.

Daniel Foley, Chair
Commission to Improve Standards of Conduct

Enc. Final Report of the Commission to Improve Standards of Conduct

Cc: Robert D. Harris, Vice Chair, Executive Director and General Counsel of the
State Ethics Commission

Barbara C. Marumoto, former legislator, Hawaii House of Representatives

Florence T. Nakakuni, retired United States Attorney for the District of Hawaii

Janet Mason, League of Women Voters of Hawaii

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission

Nikos Leverenz, Advisory Board member Common Cause Hawaii

FINAL REPORT OF THE COMMISSION TO IMPROVE STANDARDS OF CONDUCT

Submitted to the House of Representatives on December 1, 2022

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EXECUTIVE SUMMARY

Executive Summary

Over the past decade Hawaii has experienced several societal concerns, such as homelessness, affordable housing, overtourism and reliance on a tourism-centric economy, climate change mitigation and adaptation, traffic congestion, substance abuse, crime, and a large economic divide. However, in 2022, incidents involving a few state and county government officials and private individuals who work closely with government institutions became one of the most glaring and embarrassing societal concerns in Hawaii, as they seemed to reveal deep-rooted systemic and institutional problems and lapses in moral judgment or integrity in the character of certain individuals.

On February 8, 2022, Hawaii grabbed national headlines when the U.S. Department of Justice charged a former State Senator and a sitting State Representative with the offense of honest services wire fraud – an offense punishable by up to 20 years of imprisonment and up to a \$250,000 fine.¹ The former Senator and sitting Representative plead guilty to the charges shortly thereafter.² Hawaii has recently endured other high-profile acts of criminal conduct on each island of the State.³ Specific charges in these cases include the following:

- Fraud by a former housing specialist at the Hawaii County Office of Housing and Community Development, along with conspiracy by three other private individuals;^{4, 5}
- Drug trafficking conspiracy, distribution of methamphetamine, and assault by a Kauai County councilman;⁶

¹ [Two Hawaii Legislators Charged with Honest Services Fraud | United States Department of Justice](#). Accessed 13 Nov. 2022.

² [Two Former Hawaii Lawmakers Plead Guilty To Accepting Bribes - Honolulu Civil Beat](#). Accessed 15 Nov. 2022.

³ [County Ethics Watchdogs Need More Money To Do The Job Right, State Panel Says - Honolulu Civil Beat](#). Accessed 15 Nov. 2022.

⁴ [Ex-Hawaii County housing official pleads guilty to taking \\$2M in kickbacks \(hawaiinewsnow.com\)](#). Accessed 15 Nov. 2022.

⁵ [3 more charged in conspiracy to get millions in kickbacks for Big Island housing projects \(hawaiinewsnow.com\)](#). Accessed 15 Nov. 2022.

⁶ [Judge rejects 15-year deal for ex-Kauai councilman in meth ring \(staradvertiser.com\)](#). Accessed 12 Nov. 2022.

EXECUTIVE SUMMARY

- Conspiracy by the Honolulu Police Chief and his Deputy Prosecutor wife, along with conspiracy to hide public funds by Honolulu's Corporation Counsel, Managing Director, and Chairperson of the Honolulu Police Commission;⁷
- Conspiracy against the former Honolulu Prosecutor and several employees of an engineering firm;⁸
- Bribery by a Honolulu businessman and a former Maui County Director of Environmental Management;^{9, 10}
- Bribery by five current or former employees of Honolulu's Department of Planning and Permitting, along with one architect;¹¹ and
- Embezzlement and fraud by the former union leader of Honolulu's International Brotherhood of Electrical Workers Local 1260 and two of his family members.¹²

In addition, an October 2022 follow-up report to a 2019 audit of the Office of Hawaiian Affairs completed by an independent tax and audit firm revealed potential instances of fraud by former top officials at the Office of Hawaiian Affairs totaling more than \$7.3 million.¹³

Thus, the acts of a few individuals have led many to believe that a deep moral crisis exists throughout each corner of the State. This moral crisis has led the Commission to Improve Standards of Conduct (Commission) to believe that Hawaii is at a critical juncture in regard to restoring public trust in government and reforming areas of the law related to issues such as corruption, fraud, ethics, elections, and campaign finance. The Commission finds that given the current circumstances, beginning with the reprehensible, dishonest acts of a few and leading to the creation of the Commission by

⁷ [3 Arrested Over Payout to Convicted Ex-Honolulu Police Chief \(usnews.com\)](#). Accessed 14 Nov. 2022.

⁸ [Former Honolulu prosecutor Keith Kaneshiro pleads not guilty to bribery charges | Hawai'i Public Radio \(hawaiipublicradio.org\)](#). Accessed 14 Nov. 2022.

⁹ [Prosecutors: Businessman funneled \\$2M in bribes to public official in exchange for Maui contracts \(hawaiinewsnow.com\)](#). Accessed 14 Nov. 2022.

¹⁰ [Former Maui County director pleads guilty to taking bribes | News, Sports, Jobs - Maui News](#). Accessed 12 Nov. 2022.

¹¹ [Five Honolulu Planning Department Employees Indicted For Bribery - Honolulu Civil Beat](#). Accessed 14 Nov. 2022.

¹² [Ahakuelo Trial: Family Accused Of Using Honolulu Union Funds As A 'Personal Piggybank' - Honolulu Civil Beat](#). Accessed 14 Nov. 2022.

¹³ [OHA Vows Accountability After Audit Finds Evidence Of 'Fraud, Waste And Abuse' - Honolulu Civil Beat](#). Accessed 14 Nov. 2022.

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House Resolution No. 9, Regular Session of 2022 (House Resolution), now is the time for the Commission and the public to steer the Legislature toward reform in these areas of the law and redirect elected officials, public servants, and private citizens toward "true north" values of honesty, public service, and ethical behavior to rebuild integrity and public trust in government.

At the direction of the House Resolution ([Appendix A](#)), the Commission convened regularly for over nine months in 2022 to diligently discuss a myriad of topics related to the conduct of individuals and operations of government. An essential goal of the Commission was to provide recommendations that would help restore public trust in government and increase the level of transparency in its operations and accountability of individuals by recommending clear standards of conduct and enforcement of the law.

The Commission initially convened on February 22, 2022 and set out an ambitious agenda to accomplish the mission set out in the House Resolution. The agenda included preparation of an Interim Report ([Appendix D](#)) with findings and recommendations submitted to the House of Representatives five weeks later on March 31, 2022, with the hope that the Commission's recommendations would be passed by the Legislature during the Regular Session of 2022.

The timing of submitting the Interim Report enabled the Legislature to pass seven of the Commission's recommendations, five of which were subsequently enacted by the Governor. Although the Commission achieved some success with its recommendations in the Interim Report, the Commission felt there was much more work to undertake to fulfill its objectives. With a strong sense of motivation and urgency, the Commission reconvened two weeks later to begin its deliberations and work toward this Final Report.

In contrast to the Commission meetings prior to submission of the Interim Report, the Commission meetings for this Final Report took place in public at the State Capitol and were streamed live on the Internet, with recordings also made available to the public on the Internet. The public was invited to submit written and oral testimony at each meeting, and the Commission invited certain third-party individuals and organizations with expertise on agenda items under consideration to help vet the Commission's recommendations and legislative proposals.

EXECUTIVE SUMMARY

The Commission identified potential solutions to deter and prevent acts such as those that catalyzed the creation of the Commission. In this Final Report, the Commission offers 31 legislative proposals intended to strengthen laws relating to fraud, corruption, criminal investigations, campaign spending and contributions, elections, ethics, openness of government operations, and transparency in the operations of each legislative chamber. Each legislative proposal is important and has a specific objective. The Commission believes that adoption of these 31 legislative proposals by the Legislature during the Regular Session of 2023, and subsequent enactment by the Governor, will appropriately punish individuals who violate the law or certain standards of conduct in the future and help recalibrate the moral compass of elected officials, public servants, and private citizens who engage with state and county governments

The Commission senses the significance of this pivotal point in time and recognizes a tremendous opportunity to mend the relationship between the public and its government. The Commission has heeded exhortations by the public to be bold in its recommendations and proposals and urges elected officials at the Legislature to likewise take bold action, strongly consider each request in this Final Report, and timely and decisively act to turn the tide of public sentiment toward trust in government with integrity and honorable public service.

Membership of the Commission

The Speaker of the House of Representatives appointed seven members to the Commission who have experience serving the public interest at either the federal or state level or representing national nonprofit organizations who have a mission of promoting good government practices and policies. Each of the commissioners is an active participant in the democratic process at the Legislature or has a lengthy history of public service, including at the State Capitol.

Pursuant to the House Resolution, the following members were appointed to the Commission:

- Daniel R. Foley, Chair, retired state judge;
- Robert D. Harris, Vice Chair, Executive Director and General Counsel of the Hawai'i State Ethics Commission;
- Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;
- Barbara C. Marumoto, former State Representative;
- Janet Mason, League of Women Voters of Hawaii;
- Florence T. Nakakuni, retired United States Attorney for the District of Hawaii; and
- Sandy Ma, Executive Director of Common Cause Hawaii.*
 - * Note: Sandy Ma resigned from the Commission effective June 17, 2022. The Speaker of the House of Representatives appointed, by [memorandum](#), Nikos Leverenz, Common Cause Hawaii Advisory Board Member, to fill that vacancy and serve as a Commissioner beginning June 17, 2022.

INTRODUCTION AND BACKGROUND

Introduction and Background

IMPETUS FOR ESTABLISHMENT OF THE COMMISSION

The Hawaii State Constitution places a duty on all public officers and employees to "exhibit the highest standards of ethical conduct".¹⁴ In addition, the strength and stability of our democratic government rely upon the public's trust in government institutions, including the expectation that public servants act ethically with prudence, integrity, and sound judgment.

On February 17, 2022, the Hawaii State House of Representatives adopted [House Resolution No. 9, Regular Session of 2022](#) (House Resolution) to establish the Commission to Improve Standards of Conduct (Commission) for the purpose of reforming basic underpinnings of our state governance, specifically the laws surrounding corruption, lobbying, ethics, and campaign spending.

MEMBERSHIP OF THE COMMISSION

The Speaker of the House of Representatives appointed seven commissioners representing a broad spectrum of the community, specifically members who have experience serving the public interest at either the federal or state level or representing national nonprofit organizations who have a mission of promoting good government practices and policies. Each of the commissioners have devoted a substantial part of their career to public service or to bettering public institutions and are keenly aware of the issues that arose to form this Commission.

PREPARATION OF THE INTERIM REPORT

The scope of the Commission's work was broad and encompassed a review and assessment of existing state laws and rules relating to standards of conduct of public officers and employees, including but not limited to:

- The Code of Ethics under Chapter 84, Hawaii Revised Statutes;
- Lobbying laws under Chapter 97, Hawaii Revised Statutes;
- Campaign finance laws under Chapter 11, Hawaii Revised Statutes; and
- Any other applicable laws and rules.

¹⁴ [Hawaii State Constitution – Article XIV](#). Accessed 13 Nov. 2022.

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In addition, the Commission was charged with ensuring that state laws and rules contain clear standards, enforcement mechanisms, and penalties and was encouraged to consult with appropriate third parties with expertise in the areas of ethics, campaign finance, and standards of conduct. Throughout its deliberations and actions, the Commission was firmly rooted in and steadfast in its efforts to uphold the state motto: *Ua mau ke ea o ka 'aina i ka pono*. The life of the land is perpetuated in righteousness.

In setting out its agenda and topics for discussion, the Commission operated completely independently and was not constrained in pursuing any legislative proposals that it felt would improve government operations and foster public trust and confidence in public servants. Recommendations that were put before the Commission for consideration in its Interim Report were the result of extensive thought or deliberation by a commissioner or subgroup of commissioners. Commissioners sometimes consulted third-party organizations or individuals with expertise on the subject, as well as with public citizens who shared unique perspectives. At each meeting, the commissioners discussed the merits of each proposal and on occasion offered amendments to refine recommendations. Commissioners were judicious in the scope and depth of their proposals, as well as the process used for deliberation, in order to meet the March 31, 2022, deadline for its Interim Report.

CONSTRAINTS IN COMPLETING THE INTERIM REPORT

Given the limited time between the Commission's submission of the Interim Report on March 31, 2022, and Adjournment Sine Die of the Regular Session of 2022 on May 5, 2022, the Commission narrowed its focus to those measures that could be taken up, considered, and passed by the Legislature during the Regular Session of 2022 and that would have the most immediate impact to address instances of corruption, ethical violations, and the restoration of the public trust. In addition, a 2021 Hawaii Supreme Court decision in *League of Women Voters of Honolulu and Common Cause v. State of Hawai'i* (SCAP-19-0000372, November 4, 2021) held, among other things, that substantive amendments to bills must be germane to the original purpose of the bill in

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order to meet the three readings requirement of the Hawaii State Constitution.¹⁵ The Commission adhered to the requirements of that decision in developing its recommendations for the Interim Report and considered only content that could still be passed during the Regular Session of 2022. Furthermore, due to the strict time constraints for submission of the Interim Report, the Commission was unable to hold public hearings or solicit formal testimony or input from the public when developing its recommendations for the Interim Report.

INTERIM REPORT RECOMMENDATIONS

The Commission met on a nearly weekly basis in February and March to identify areas of immediate concern in the laws and practices of state government and after five weeks of passionate discussion and debate, the Commission submitted its Interim Report to the House of Representatives on March 31, 2022.

In its Interim Report, the Commission submitted 15 bill recommendations for the Legislature's consideration. The bills related to strengthening investigations and prosecutions of corruption; increasing the openness and transparency of government operations; enhancing public trust and confidence in government officials and employees; and to curtail certain campaign practices during legislative sessions. The Commission also identified areas of long-term focus to consider further upon reconvening to prepare its Final Report. Seven of the Commission's 15 recommendations were passed by the Legislature during the Regular Session of 2022, but two of the measures were later vetoed by the Governor.

Interim Report Recommendations Enacted

Act 181, Session Laws of Hawaii 2022

[Act 181, Session Laws of Hawaii 2022](#), strengthens campaign finance reform by making the act of intentionally providing false information concerning the name or address of a person paying for a campaign advertisement a class C felony. This law also authorizes concurrent referral for criminal prosecution of campaign finance law violations in addition to administrative fines, increases the period of disqualification

¹⁵ [League of Women Voters of Honolulu & Common Cause v. State, No. SCAP-19-0000372 | Casetext Search + Citor](#) (last visited November 5, 2022)

INTRODUCTION AND BACKGROUND

from holding elective office from four years to 10 years for anyone convicted of a criminal violation of campaign finance law, and authorizes the Attorney General or Prosecuting Attorney to commence prosecution of campaign finance law violations without the need for a referral from the Campaign Spending Commission.

Act 165, Session Laws of Hawaii 2022

Beginning on January 1, 2023, [Act 165, Session Laws of Hawaii 2022](#), requires all legislators and certain state employees whose financial disclosure statements are public record to complete a live ethics training course designed and administered by the State Ethics Commission within 90 days of taking office and at least once every four years thereafter. The new law will also require all other state employees to complete the training either live or online within 90 days of the start of employment and at least once every four years thereafter. Existing state legislators and employees who have not received ethics training within the immediately preceding three years will be required to complete a live or online ethics training course in 2023 and at least once every four years thereafter.

Act 283, Session Laws of Hawaii 2022

The legislature finds that campaign fundraiser events held during legislative sessions diminish the public trust. [Act 283, Session Laws of Hawaii 2022](#), is aimed at reducing the potential influence of campaign contributions during certain periods of the year and takes effect on January 1, 2023. Specifically, this law will prohibit elected state and county officials from holding any fundraiser event, for which any price is charged or any contribution is suggested for attendance, during a regular session or special session of the Legislature.

Act 3, Session Laws of Hawaii 2022

[Act 3, Session Laws of Hawaii 2022](#), provides clarity about report filing with the Campaign Spending Commission and reduces the administrative burden on certain unsuccessful candidates and those candidates elected to public office in a primary election by eliminating the requirement for those candidates to file preliminary general reports with the Campaign Spending Commission for the following general election. This law also clarifies the aggregate contribution and expenditure amounts that trigger the requirement for a candidate or noncandidate committee to file only the final election period report.

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Act 171, Session Laws of Hawaii 2022

[Act 171, Session Laws of Hawaii 2022](#), is a housekeeping measure that supports the Campaign Spending Commission by updating the Hawaii Revised Statutes to remove obsolete cross-references that were previously repealed.

Interim Report Recommendations Vetoed

S.B. No. 3252, S.D. 2, H.D. 2, C.D. 1, Regular Session of 2022

[S.B. No. 3252, S.D. 2, H.D. 2, C.D. 1, Regular Session of 2022](#), which was passed by the Legislature and later vetoed by the Governor, would have imposed a cap on the costs charged for the reproduction of certain government records, waived the cost of duplication of government records provided to requestors in an electronic format, and imposed a cap on costs charged for searching for, reviewing, and segregating records. The bill would also have provided for a waiver of fees when the public interest is served by a record's disclosure.

S.B. No. 3172, S.D. 1, H.D. 2, C.D. 1, Regular Session of 2022

[S.B. No. 3172, S.D. 1, H.D. 2, C.D. 1, Regular Session of 2022](#), which was passed by the Legislature and later vetoed by the Governor, would have required any electronic audio or video recording of a public board meeting to be maintained as a public record and posted, regardless of whether the written minutes of the board meeting have been posted. To improve transparency, this bill would have also clarified the information required in written minutes of board meetings and repealed the option for boards to provide a digital or analog recording of the minutes with written summaries as an alternative to written minutes of board meetings.

Areas of Long-Term Focus

In the Interim Report, the Commission set out a non-exhaustive list of areas of long-term focus to further investigate in preparation for this Final Report. These topics included the following:

- Increased Criminal Penalties and Investigative Tools for State and County Law Enforcement Agencies to Address Fraud and Public Corruption.
- Public Funding of Elections.
- Term Limits.

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- Election Reform, including Ranked Choice Voting and Top Two Primaries.
- Campaign Contribution and Expenditure Restrictions.
- Voter Education, including a voter pamphlet with a link to campaign spending information about candidates and candidate committees.
- Lobbyist Reforms, including requiring and publishing financial and gift disclosures, documenting and publishing lobbyists' meetings with legislators, ethics training for lobbyists, creation of lobbyist visitor logs, adding a lobbyist's passport-type photo to their registration, disclosure of specific bills an individual lobbyist supported or opposed.
- Senate and House Rules, including disclosure of the individual or entity that requests a legislator to introduce a bill "by request".
- Legislative Grants-In-Aid Framework and Process.
- Constitutional Amendments.
- Reporting and Disclosure Exemptions.
- Gift Reporting Requirements.
- Expansion of Conflict of Interest Provisions.
- Legislation from the Regular Session of 2022 that did not meet the criteria for inclusion in the Interim Report.

PREPARATION OF THE FINAL REPORT

Preparation of the Final Report

SCOPE AND METHODOLOGY OF THE COMMISSION IN PREPARATION OF THE FINAL REPORT

The Commission included within its scope of work for this Final Report a reexamination of the eight recommendations from the Interim Report that were not passed by the Legislature and of the two measures it recommended in the Interim Report that were passed by the Legislature but vetoed by the Governor.

Following the Governor's veto of [S.B. No. 3252, S.D. 2, H.D. 2, C.D. 1, Regular Session of 2022](#), the Commission revisited the goal of ensuring access to government records as a means of increasing transparency of government operations. The Commission was particularly sensitive to the potential fiscal impacts to state agencies of waiving fees as proposed in the original draft recommended in the Interim Report. The Commission further recognizes the need for transparency between government and the public in the conduct of government operations. Therefore, in a revised proposal included in this Final Report, the Commission seeks a more balanced approach that achieves a cost-effective solution when considering the information sought and the time, resources, and costs involved by the agency. The Commission is hopeful that its revised proposal will pass the Legislature and be enacted by the Governor.

Following the Governor's veto of [S.B. No. 3172, S.D. 1, H.D. 2, C.D. 1, Regular Session of 2022](#), the Commission felt that this subject also necessitated further consideration and developed another proposal for consideration by the Legislature and Governor during the Regular Session of 2023.

As the Commission indicated in its Interim Report, the Commission also revisited the Areas of Long-Term Focus identified in the Interim Report and developed legislative proposals in those areas.

In contrast to the Commission's frenetic pace to complete its Interim Report, the methodology used to develop this Final Report afforded the Commission sufficient time to hold public meetings, solicit public testimony and formal input, invite certain individuals and organizations to Commission meetings, and explore multiple facets of the issues and relevant laws. The process for the Commission involved providing the public with adequate notice of its scheduled meetings and the agenda for each meeting, including proposed legislation under consideration by the Commission. Public meetings

PREPARATION OF THE FINAL REPORT

allowed the Commission to engage with the public, government agencies, and private organizations and seek their feedback and assistance in crafting legislative proposals and recommendations to be introduced and considered by the Legislature during the Regular Session of 2023.

Between the submittal of the Commission's Interim Report and this Final Report, Hawaii held its first general election following the decennial reapportionment. As a result of the General Election of 2022, more than 20 individuals will take the oath of office to become members of the Hawaii State Legislature. Hawaii voters also elected a new Representative to the United States House of Representatives, a new mayor for Maui County, and a new Governor, all of which will likely lead to a flood of new public servants under new administrations and a reshuffling of existing and former public servants. Therefore, another objective of the Commission for this Final Report is to continue the written record of discussions and deliberations that began with the Interim Report, in hopes that this trove of information will provide insight to the newly elected and reelected officials as well as the public servants who will play a critical role in reversing long-standing norms in government and establishing a new work culture that provides more honest, ethical, and transparent services to the public.

COMMISSION MEETINGS

After submittal of the Interim Report, the Commission conducted 13 public meetings in preparation for this Final Report. A summary of the topics of discussion at each meeting is below and a complete copy of the minutes from each meeting can be found in [Appendix B](#). The minutes include details of the discussion amongst the commissioners and consideration of the written testimony received by the Commission. At each of the 13 public meetings, the Commission also received oral testimony from the public and any invited third party individuals or agencies when applicable. The minutes note the amendments offered to the Commission's proposals, votes for and in opposition to each proposal, and adoption of proposals by the Commission, if applicable. A complete, unedited video recording of each Commission meeting in preparation for this Final Report can also be found on the [Hawaii House of Representatives YouTube channel](#) or by clicking on the appropriate Notice of Meeting on the [Commission's webpage](#).

PREPARATION OF THE FINAL REPORT

April 14, 2022 Meeting

The Commission received written testimony from the public and provided an opportunity for oral testimony. Topics discussed at the meeting included an update on the status of the recommendations in the Commission's Interim Report and a proposed schedule of future meetings and their format. The Commission agreed to invite certain subject matter experts to meetings to assist the Commission in crafting legislative measures.

June 1, 2022 Meeting

The Commission received written testimony from the public and provided an opportunity for oral testimony. Vice Chair Harris facilitated the topics of discussion at this meeting and provided a slide presentation on ethics-related reforms. Specifically, the ethics reforms related to appropriate funding of state and county ethics boards and commissions; streamlining of lobbyist registration requirements; lobbyist gift regulation requirements; lobbyist training requirements; lobbyist disclosure requirements; legislator conflicts of interest; legislator financial disclosures; anti-nepotism regulations; public reporting of legislative allowance expenditures; and legislator civility and aloha rule concepts.

June 15, 2022 Meeting

The Commission received written testimony from the public and provided an opportunity for oral testimony. Commissioner Mason and Commissioner Ma facilitated the topics of discussion at this meeting, which included a proposal for term limits, a discussion of one-party dominance in Hawaii, and a proposal for improved voter education in Hawaii.

The Commission invited four individuals to participate in this meeting to share their expertise on the topics being considered. Jessica Jones Capparell, Director of Government Affairs at the League of Women Voters of the United States, provided a presentation on term limits. Neal Milner, a local columnist and former political science professor at the University of Hawaii, provided a presentation on the dominance of the one-party system in Hawaii. Donna Oba, President of the League of Women Voters of Hawaii, and Raymond de Vega of the State Office of Elections provided a presentation on the importance of voter education.

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June 29, 2022 Meeting

The Commission received written testimony from the public and provided an opportunity for oral testimony. Commissioner Izumi-Nitao facilitated the topics of discussion at this meeting, which centered on campaign finance reform.

The Commission invited certain staff of the Campaign Spending Commission to give a presentation on public funding of elections and other issues pertaining to contributions and expenditures; expanding the government contractor ban; enhancing the fundraiser ban; increased penalties for campaign finance violations; and administrative investigative tools. The Commission also invited to the discussion Jonathan Wayne, Executive Director of the Maine Clean Election Act Program. Mr. Wayne presented on the origin, scope, structure, and funding of the Maine Clean Election Act Program, which provides full public financing for candidates for Governor and the Legislature who volunteer to participate in the program.

July 13, 2022 Meeting

The Commission received written testimony from the public and provided an opportunity for oral testimony. Commissioner Nakakuni and Commissioner Marumoto facilitated a panel discussion with invited third-party agencies that concerned strengthening the investigation and prosecution of fraud and public corruption at the state and county levels.

The following individuals were invited to the panel discussion:

- Jeff Felmann, Federal Bureau of Investigation (FBI) Supervisory Agent, Accountant, and head of FBI's White Collar Squad in Hawaii;
- Matt McDonald, FBI Supervisory Special Agent, Assistant Division Counsel for FBI's Honolulu Division, and former head of FBI's White Collar Squad in Honolulu;
- Steven S. Alm, former U.S. Attorney for the District of Hawaii (1994-2001) and current Prosecuting Attorney for the City and County of Honolulu;
- Holly Shikada, Attorney General of Hawaii;
- Cheuk Fu Lui, Deputy Attorney General, Criminal Justice Division;
- Gary Yamashiroya, Deputy Attorney General;
- Margery S. Bronster, former Attorney General of Hawaii (1995-1999);

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- Doug Chin, former Lieutenant Governor of Hawaii (2018) and former Attorney General of Hawaii (2015-2018);
- Andrew H. Martin, Prosecuting Attorney of the County of Maui; and
- Rebecca V. Like, Prosecuting Attorney of the County of Kauai.

The panel of experts offered an overview of the FBI's Public Corruption Program and the specific federal statutes that are most often used to charge these cases; a general discussion of proposals for new state legislation; and plans for the new division in the Department of the Attorney General to combat corruption.

July 27, 2022 Meeting

The Commission received written testimony from the public and provided an opportunity for oral testimony. Commissioner Mason and Commissioner Leverenz facilitated the topics of discussion at this meeting, which included a discussion of Hawaii's Open Meetings and Open Records laws and the importance of transparency and accountability in building the public's trust in government.

The Commission invited the following individuals and agencies to provide their subject-matter expertise on the topics at this meeting:

- Cheryl Kakazu Park, Director of the Office of Information Practices, who provided an overview of the Office of Information Practices and a presentation on the Uniform Information Practices Act and Sunshine Law;
- R. Brian Black, President and Executive Director of The Civil Beat Law Center for the Public Interest, who gave a presentation on government transparency from an advocate's perspective; and
- Randall Roth, Professor Emeritus of the University of Hawaii William S. Richardson School of Law, who spoke on transparency and accountability in helping build and maintain public trust in government.

August 17, 2022 Meeting

The Commission received written testimony from the public and provided an opportunity for oral testimony. Vice Chair Harris facilitated this meeting, which involved a discussion on improving the current legislative process. The Commission invited five current members of the Legislature to have a robust discussion and question-and-answer

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session on how to improve the effectiveness of the legislative process and provide public access and feedback. The legislators invited to the discussion were as follows:

- Representative Della Au Belatti, Majority Leader House of Representatives;
- Senator Chris Lee, Chair of the Senate Committee on Transportation;
- Representative Mark. M. Nakashima, Chair of the House Committee on Judiciary & Hawaiian Affairs;
- Senator Karl Rhoads, Chair of the Senate Committee on Judiciary; and
- Representative Gene Ward, House Minority Policy Leader.

August 24, 2022 Meeting

The Commission received written testimony from the public and provided an opportunity for oral testimony. Vice Chair Harris continued the discussion from the prior meeting about how to improve the legislative process and engaged in discussion with Gene Ward, House Minority Policy Leader, who was unable to attend the prior meeting. Vice Chair Harris also proposed a draft bill to prohibit nepotism.

In addition, Vice Chair Harris provided a presentation based on public input that pertained to the legislative referral process, the power of chairpersons, potential rule changes for each chamber, transparency and public access to certain legislative proposals during session and public testimony, and the legislative calendar.

October 5, 2022 Meeting

The Commission received written testimony from the public and provided an opportunity for oral testimony. Commissioner Mason and Commissioner Leverenz introduced several draft bills for discussion at this meeting regarding the recording of public meetings, Sunshine Law, public records, elections, and term limits.

October 19, 2022 Meeting

The Commission received written testimony from the public and provided an opportunity for oral testimony. Commissioner Izumi-Nitao, along with Tony Baldomero, Associate Director of the Campaign Spending Commission, and Gary Kam, General Counsel of the Campaign Spending Commission, facilitated the discussion of draft bills pertaining to campaign finance reform.

PREPARATION OF THE FINAL REPORT

October 26, 2022 Meeting

The Commission received written testimony from the public and provided an opportunity for oral testimony. Vice Chair Harris facilitated the discussion of draft bills, resolutions, and House and Senate rules related to ethics and the legislative process, and proposed draft bills for discussion and decision-making by the Commission. The Commission also discussed in detail proposed agenda items for its final two meetings.

November 2, 2022 Meeting

The Commission did not receive any written testimony for this meeting but did hear oral testimony from one individual. Commissioner Marumoto offered a draft bill pertaining to Super PACs and the need for greater transparency surrounding noncandidate committees and campaign donations. In addition, the Commission discussed and voted on draft bills deferred from prior meetings.

November 9, 2022 Meeting

The Commission received written testimony from the public and provided an opportunity for oral testimony. Commissioner Nakakuni facilitated the discussion at this meeting, which centered on draft bills relating to enhancing state criminal laws to better address public corruption and fraud. In addition, Commissioner Izumi-Nitao offered for consideration a draft bill pertaining to increasing partial public funding of elections.

Findings and Legislative Proposals

Several members of the public exhorted the Commission to be bold in its actions and legislative proposals. The Commission understands that the public's trust and belief in the integrity of state and county governments have been shaken and can no longer be taken for granted but rather earned and regained over time. The Commission believes the 31 legislative proposals it recommends in this Final Report are bold and intended to steer the Legislature toward reform in these areas of the law and to recalibrate elected officials, public servants, and private citizens who engage with state and county governments toward "true north" values of honesty, public service, and ethical behavior.

Each legislative proposal is summarized below and attached in full form in [Appendix C](#).

I. STRENGTHEN INVESTIGATION AND PROSECUTION OF FRAUD

The Commission finds that in comparison to the federal criminal code and prosecutorial agencies, the State's Penal Code and enforcement agencies do not have sufficient authority to adequately investigate, charge, and sentence instances of corruption and fraud. To make a significant impact in curtailing bad actors, the Commission finds that establishing new offenses within Hawaii's Penal Code would allow enforcement agencies and prosecutors to promptly and fairly investigate complaints, charge suspects, and impose sentences upon conviction. The Commission notes the potential for sizeable fines and other penalties for violations to also help deter criminals and hold them accountable.

The Commission also finds that revoking certain privileges, such as the ability to seek public office, from persons convicted of certain offenses is important in reforming the Penal Code. Thus, any person convicted of any of the Commission's proposed offenses for fraud, false statements, or false claims would be prohibited from seeking public office for a period of 10 years. In addition to the Commission's proposals in this Final Report, the Commission encourages the Legislature to similarly consider prohibiting any person convicted of an offense under Chapter 710, Hawaii Revised Statutes, Offenses Against Public Administration, from seeking public office for a period of 10 years.

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Following extensive debate, deliberation, and testimony on the pros and cons of harsh sentencing, the Commission adopted proposals amending the Penal Code by imposing a mandatory minimum term of imprisonment of one year without the possibility of probation and by making certain offenders ineligible for a deferred acceptance of guilty or nolo contendere plea. Certain commissioners were opposed to these proposals, noting that these proposed amendments would diminish discretion of the sentencing judge, fail to consider nuances in the facts and circumstances of each offense that might justify a different, potentially lesser, sentence and may lead to further racial injustices and disparity in the treatment of certain ethnicities in the criminal justice system. However, a majority of the commissioners felt that these proposals respond to the public's call for bold action by the Commission and exemplify the types of actions the Commission can take to appropriately deter and penalize acts that were the impetus for its creation.

Fraud

Modeled after the general federal fraud criminal statutes, [this proposal](#) seeks to establish a new criminal offense for fraud at the state level. It is intended to have broad application and cover schemes to obtain a financial benefit or other gain by means of false statements, misrepresentations, concealment of important information, or deception. Conviction for this offense would result in a Class B felony and include a mandatory minimum sentence of imprisonment of one year without the possibility of probation. Any person convicted of this offense would be prohibited from being a candidate for public office for a period of 10 years.

False Statements

Modeled after the generic federal false statements statute, [this proposal](#) would create a Class C felony offense for any person who, in dealing with the state or county government, knowingly or willfully falsifies, conceals, or covers up a material fact; makes a materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document known to have materially false information. Any person convicted of this offense would not be eligible for a deferred acceptance of guilty or nolo contendere plea. In addition, the person convicted would be prohibited from being a candidate for public office for a period of 10 years.

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False Claims

Modeled after the federal false claims statute, [this proposal](#) would establish the offense of knowingly making a false, frivolous, or fraudulent claim against the State or a county as a Class C felony. Any person convicted of this offense would not be eligible for a deferred acceptance of guilty or nolo contendere plea. In addition, the person convicted would be prohibited from being a candidate for public office for a period of 10 years.

Campaign Spending Commission Orders

[This proposal](#) would strengthen the ability of the Campaign Spending Commission to resolve certain matters by providing that a person waives the right to a contested case hearing if the person fails to request a contested case hearing within 20 days of receipt of the Commission's preliminary determination. In addition, this proposal would allow the Campaign Spending Commission to file its final order with the Circuit Court of the First Circuit for confirmation as a civil judgment that would have an equivalent enforceability and collectability as any other judgment issued in the circuit courts.

Preliminary Determination of Probable Cause

[This proposal](#) is another attempt to assist the Campaign Spending Commission resolve certain matters before it by authorizing the Commission to serve preliminary determinations of probable cause via first-class mail, instead of by certified mail. The bill would also establish a presumption of receipt when the preliminary determination is mailed to the address contained in a candidate or committee organizational report.

Complaints Alleging Campaign Spending Violations

[This proposal](#) would authorize the Campaign Spending Commission to presume that a violation of campaign spending laws has occurred if a respondent fails to explain or otherwise respond to a complaint alleging a campaign spending violation.

II. GIVE OPENNESS AND TRANSPARENCY A BOOST

Article III, section 12 of the Hawaii State Constitution requires that "[e]very meeting of a committee in either house or of a committee comprised of a member or members from both houses held for the purpose of making decision on matters referred to the committee shall be open to the public." The Commission finds that the Legislature is an institution of representative democracy and that citizens have a right to know what

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is happening in its government and to be able to "see through" what is going on when government officials conduct business. Along those lines, the Commission finds that it is important for government records and operations to be properly maintained and accessible to the public, while still maintaining an appropriate level of personal privacy. The Commission further finds that fostering an environment of inclusion regarding access to information is key to a democratic society.

Hawaii State Legislature Website

The Commission commends the Legislature for the availability of legislative information, resources, and access to the public through the Hawaii State Legislature website.¹⁶ In particular, the Hawaii State Legislature website allows users to search for the status of any bill, resolution, Governor's Message, or Judiciary Communication introduced by the Legislature since 1999 and the full text of these documents from approximately 2007. Users of the website can quickly and easily access information relating to the current status of a measure; any referrals and re-referrals; its progression through committees and each house, as applicable, including the votes in committee and on the chamber floor; each draft of the measure and its accompanying committee reports; and copies of all written testimony and hearing notices filed for the measure. The main measure status page for each measure summarizes important information, including its title, description, any companion measures, any package to which the measure belongs, current referral, and names of primary introducers and co-sponsors.

The website also has the ability to search measures by keyword and to browse the most recent version of the Hawaii Revised Statutes and Session Laws of Hawaii, as well as useful information specific to each chamber of the Legislature and other legislative information and studies.

Most importantly for purposes of public participation and transparency, the Hawaii State Legislature website allows anyone to register and submit written testimony and receive notice of upcoming hearings for any measure introduced in the Legislature. In addition, anyone can personalize notifications by subscribing to a Really Simple Syndication (RSS) feed for a particular area of interest to receive notification of new content posted to the website.

¹⁶ [Hawaii State Legislature website \(www.capitol.hawaii.gov\)](http://www.capitol.hawaii.gov). Accessed 15 Nov. 2022.

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The usefulness and functionality of the Hawaii State Legislature website have earned national recognition and awards. In 2012, Hawaii won the Online Democracy Award presented annually by the National Conference of State Legislatures to the nation's top legislative website.¹⁷ In addition, the House Technical Support Services office won the Legislative Staff Achievement Award in 2019 from the National Association of Legislative Information Technology.¹⁸

As technology continues to change at a rapid pace, the Legislature continues its efforts to improve its services. Over the past year, the Legislature has undertaken a multi-year project to completely makeover the Hawaii State Legislature website to improve its functionality and user friendliness. The Legislature dedicated significant financial and human resources to the redesign, including focus groups comprised of legislative staff, certain third parties, and the public to help determine what could be improved and identify the needs of various users. The first phase of the new and improved website was launched on November 14, 2022.

Submission and Immediate Viewing of Testimony

As of the date of submission of this Final Report, legislative testimony is requested to be received at least 24 hours before a measure is to be heard by a standing committee. However, the timely submission of testimony is challenging due to the short amount of time between public posting of a hearing notice and the testimony submission deadline, especially for long, complex measures or measures with many amendments.

To further openness in the process and timely access to information, the Commission recommends that the Legislature explore the option of allowing the submission and immediate viewing of testimony. Enabling registered users of the Hawaii State Legislature to view each piece of testimony through the website immediately after it is submitted will foster greater inclusion and insight to measures on a hearing notice and further transparency in the operations of standing committees. Such a policy would even enable standing committee members and the public to gain a better understanding of the issues and follow the process of reaching a decision on each measure.

¹⁷ [Hawaii is awarded with top honors for its legislative website \(ncsl.org\)](#): Accessed 15 Nov. 2022.

¹⁸ [National Association of Legislative Information Technology \(NALIT\) Legislative Staff Achievement Award Winners \(ncsl.org\)](#): Accessed 15 Nov. 2022.

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Live Streaming of Legislative Hearings and Floor Sessions

In 2020, amidst the COVID-19 pandemic and in an effort to provide continued public access, the Legislature began livestreaming committee hearings and floor sessions and making recordings of the hearings available through its website. The quick change in practice greatly increased opportunities for civic participation and greater access to the legislative process by more communities and neighbor island citizens. It appears that both chambers are planning to continue the practice of livestreaming committee hearings and floor sessions for the Regular Session of 2023.

Measures Not Scheduled for Public Hearing

The Commission understands that in addition to requiring open decision making, Article III, section 12 of the Hawaii State Constitution also allows for a chamber or house to recall a bill from a committee 20 days after the bill is referred to the committee by a vote of one-third of the members to which that chamber is entitled. Furthermore, the Commission is aware that the 2021-2022 rules of each chamber have a separate process to allow a majority of committee members to petition for a public hearing on a particular measure. In the House of Representatives, the petition goes to a Review Panel for a determination. In the Senate, the petition is in the form of a written request to the committee chairperson to schedule a bill for a public hearing.^{19, 20} Although there are existing processes in place, the Commission is aware that these mechanisms are rarely used. During testimony to the Commission, the public expressed frustration over the lack of transparency in the process of determining why certain measures referred to a committee are either scheduled or not scheduled for a public hearing. Thus, the Commission recommends that the Legislature consider implementing a process or policy whereby committee chairs would be required to articulate their reasons for deferring measures indefinitely and for not scheduling any measures referred to their committee for public hearing, if applicable.

Unilateral Deferral of Measures Indefinitely

In addition to the lack of transparency surrounding the scheduling or non-scheduling of measures for public hearing, the Commission finds that measures scheduled and heard by a committee that are subsequently deferred indefinitely should

¹⁹ [House Rule 11.3](#). Accessed 16 Nov. 2022.

²⁰ [Senate Rule 23\(3\)](#). Accessed 16 Nov. 2022.

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also be accompanied by a complete explanation or record describing why the chair unilaterally decides to defer the measure. Such actions at the sole discretion of a chair, without input or vote by the other committee members, can create a perception of unfairness in the process. This is in contrast to a chair's recommendation to hold a measure which requires a majority vote of the committee to approve.

Part I of Chapter 92, Hawaii Revised Statutes, "Sunshine Law"

The Commission acknowledges that the Sunshine Law codified as Part I of Chapter 92, Hawaii Revised Statutes, was enacted to provide requirements and limitations for public agency meetings and records and in particular public boards and commissions. The aim of the law is to allow, as liberally as possible, the public to have sufficient notice and access to information, discussions, and decisions that will enable government agencies to form and implement public policy on behalf of the people. However, in regard to the requirements and procedures for meetings of the Legislature, the Sunshine Law is inapplicable and allows for the respective rules of each chamber to take precedence.²¹

The Commission finds that the Sunshine Law was intended to apply much more appropriately to the Executive Branch of government in comparison to the Legislative Branch. The Commission further finds that with the condensed and constitutionally-based calendar and limitations of legislative sessions, subjecting the Legislature to the existing constraints of the Sunshine Law would hamper progress and quite possibly prevent the development of critical policy and enactment of laws. For example, applying the Sunshine Law requirement of filing a meeting notice at least six calendar days in advance of the meeting would severely restrict and hamper the work of the 34 standing committees of the Legislature that need to complete its work within a regular session of 60 legislative days.^{22, 23}

Although sweeping application of the Sunshine Law to the existing legislative calendar and process is impractical, the Commission does recommend that the Legislature incorporate within the current structure and framework of the legislative process as much of the sentiment contained in the Sunshine Law as is possible. In particular, the Commission recommends that committee chairs provide as much

²¹ Section 92-10, Hawaii Revised Statutes.

²² Section 92-7(b), Hawaii Revised Statutes.

²³ Combined number of Standing Committees in the House and Senate for the Regular Session of 2022.

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explanation and transparency to the process as it relates to the scheduling of measures heard in a public hearing and the indefinite deferral of measures referred to a committee. In addition, adhering to a practice of sharing proposed drafts that substantively change the means of accomplishing a legislative idea with the public in a timely manner would further embody the spirit and aim of the Sunshine Law.

Sunshine Law

To further the intent of the Sunshine Law while considering the strict legislative timetable and deadlines mandated under Article III of the Hawaii State Constitution, the Commission's intent for [this proposal](#) is to walk back some of the Sunshine Law exemptions that have been enjoyed by the Legislature or established. This proposal would expand application of the Sunshine Law to legislatively appointed bodies, including task forces, working groups, special committees, and select committees, and require each chamber of the Legislature to hold public hearings on its rules on a biennial basis. The Commission anticipates that feedback received during these public hearings would better effectuate the spirit and intent of the Sunshine Law despite its limited application to the Legislature thus far.

Bill of Rights

In developing legislative proposals in this area, the Commission considered not only the practical impact of open decision making as outlined in the Hawaii State Constitution and the need for public access to essential information, but more importantly the Commission devoted great effort into examining how the interactions between elected officials, public servants, and public testifiers take place during the legislative process.

[This proposal](#) would establish the Office of the Public Advocate and codify 13 explicit rights of the public with respect to the conduct and operation of the Legislature and its members. The proposal would also specify procedures for the investigation and reporting of alleged violations of the rights.

The Commission offers this proposal as an aspirational starting point for how the public and legislators can best engage with each other in a respectful and transparent manner during the legislative process. Collectively, the 13 rights of the public embody ideals of respect, fairness, openness, and dignity in the legislative process. The rights

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also require that official legislative business be conducted in a transparent and honest manner and that decisions be based on the merits of the legislation.

To implement and enforce the rights in this proposal, the bill establishes a new Office of the Public Advocate, to be administratively attached to the Department of the Attorney General. The Commission understands that it may be more beneficial to assign the proposed functions in this proposal to an existing state agency or department, rather than create a new office. The Commission's ultimate goals for this proposal are to create a standard for public access and transparency in an objective decision making process and to allow engagement in the legislative process to be as respectful and ethical as possible.

Rules of the House and Rules of the Senate

[Each of these two single-house resolutions](#) would examine the rules of one chamber of the Hawaii State Legislature. The goal for these proposals is to shed greater clarity and transparency on the legislative process in regard to legislator conflicts of interest, disclosures, voting, and recusal from voting. Adoption of these resolutions to amend the respective rules of each chamber, which would apply beginning with the Regular Session of 2023, would enhance the transparency and accountability of legislators.

Open Records Law

Beginning on July 1, 2024, [this proposal](#) would impose a cap on charges for the reproduction of certain government records; waive the cost of duplication of government records provided to requestors in an electronic format; impose a cap on charges for searching for, reviewing, and segregating records; and provide for a waiver of fees when the public interest is served by a record's disclosure. In case this proposal alters the use of existing state resources, this proposal includes an appropriation for two full-time equivalent positions within the Office of Information Practices.

Recordings of Public Meetings

Beginning on October 1, 2023, [this proposal](#) would encourage public boards to maintain any electronic audio or visual recording of a board meeting as a public record on the board's website regardless of whether the written minutes of the meeting have been posted and to submit a copy of the recording to the State Archives. The bill would

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also amend the information that must be included as part of the written minutes of board meetings.

Failure to File Organizational Reports

[This proposal](#) would require the Campaign Spending Commission to publish on its website the names of candidate committees and noncandidate committees who fail to properly file an organizational report. The Commission finds that this measure would improve compliance and also bring awareness of noncompliance to the public.

Legislative Financial Disclosures

[This proposal](#) would increase transparency and potentially uncover conflicts of interest or self-dealing as it requires each member of the Legislature to disclose certain relationships with lobbyists or lobbying organizations in the member's financial disclosure.

Lobbyist Disclosures

[This proposal](#) would amend the information in the statement of expenditures reports that lobbyists and other individuals would be required to file with the Hawaii State Ethics Commission. The new information would require impacted individuals to include in their reports the legislative or administrative action that the individual filing the report commented on, supported, or opposed. In the report, the individual would need to identify the actual bill or resolution number and budget cost or program identification number or other similar identifier, if applicable, of the measure.

Legislative Allowance Disclosures

[This proposal](#) would increase transparency and ease of access to information related to the expenditure of taxpayer monies. Specifically, the proposal would require each house of the legislature to post a report of the legislative allowance expenditures for each of its members on the Hawaii State Legislature website.

III. SERVE THE PUBLIC INTEREST WITH ETHICAL AWARENESS AND OVERSIGHT

The Commission finds that maintaining public confidence in government requires that elected and appointed government officials, as well as the lobbyists who interact with those individuals, demonstrate ethical behavior and that the conduct of their actions be honest and transparent. In terms of rebuilding and gaining public trust, it is just as

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important for these individuals to avoid even the slightest appearance of any impropriety, act of unfairness, or personal benefit.

The Commission further finds that the recent criminal acts and unethical behavior throughout the State are not a one sided problem. Such reprehensible actions require a quid pro quo dynamic where mutual gain of some kind is gained by multiple parties. Therefore, in the following proposals, the Commission was focused not only on reforming the acts of elected officials and public servants, but also on the need to extend the application of certain laws to private individuals and lobbyists. Several of the Penal Code proposals in Part I of the legislative proposals would likely apply to those individuals as well, but the Commission recognizes that some proposals should be more specifically tailored to certain individuals.

Mandatory Lobbyist Training

The Commission finds that more education and training can be done to ensure that lobbyists have notice of the law, understand the application of the law, and comply with legal requirements. Therefore, [this proposal](#) would require the Hawaii State Ethics Commission to design and administer a lobbyist training course. The training would begin on January 1, 2024, and be mandatory for all lobbyists who are required to register and renew their registration with the State Ethics Commission, with administrative fines for noncompliance.

Nepotism

Beginning on July 1, 2023, [this proposal](#) would prohibit under certain circumstances legislators and state employees from hiring or promoting relatives and household members. The proposal would also prohibit legislators and state employees from making or participating in certain other employment-related decisions and from awarding a contract to or otherwise taking official action on a contract with a business if the legislator's or employee's relative or household member is an executive officer of or holds a substantial ownership interest in that business. The bill would impose administrative fines for violations.

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County Ethics Funding

[This proposal](#) would provide grants-in-aid to the board of ethics of each county in an effort to ensure that these boards have adequate resources to continue their operations and pursue their respective missions.

County Government Structure Review

[This resolution](#) would urge each county to review its government structure to assess the outcome of past criminal acts and to identify areas of risk that are ripe for potential abuse. This resolution would also urge each county to consult with state and county resources and personnel in performing the assessment and develop a plan for systematic improvement that will prevent corruption and ethical violations. The Commission finds that improving each county's government structure, along with developing independent oversight over executive departments at the county level, will help restore the public's trust in county governments.

IV. REDUCE THE POWER OF MONEY IN POLITICS

The Commission finds that wealthy individuals often enjoy greater opportunities and privileges in life than the poor and have-nots. Power is often so tightly intertwined with wealth that they often co-occur in societal structures, particularly in the arena of politics, where power may beget more money and money may beget more power. It is no small thing to disentangle the two when their influence on each other is longstanding and systemic and where there is now such strong inertia against any system that would jeopardize the wealth of those who hold it or the power of those who wield it. The proposals in this section are the Commission's best efforts to tackle this mammoth task.

[Citizens United v. Federal Elections Commission, 558 U.S. 310 \(2010\)](#) ²⁴

The Commission finds that the variable that has had the single greatest impact on our political structure over the past decade is the United States Supreme Court holding in *Citizens United*, that independent political spending cannot lead to corruption or the appearance of corruption. The Court's ruling based on freedom of speech principles allows political donors to spend unlimited sums of money on ads and other political tools in favor or against a candidate or cause. Essentially, the Court's 5-4 decision has allowed

²⁴ [Citizens United v. FEC :: 558 U.S. 310 \(2010\) :: Justia US Supreme Court Center](#). Accessed 16 Nov. 2022.

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a small group of wealthy individuals to unfairly wield political power and influence against the common voter in an election.

Wealthy donors, corporations, and special interest groups have long had an outsized influence in the outcome of elections, but the decision in *Citizens United* dramatically expanded the influence of money in politics. With the influence of money in politics comes greater temptation and opportunities for corruption, bribery, and greed.

In the 100 years prior to *Citizens United*, the Court had upheld election spending restrictions, arguing that the government had a role and responsibility to prevent corruption.²⁵ In the aftermath of *Citizens United*, analysts focused much of their attention on how the Supreme Court designated independent corporate spending on elections as free speech, but perhaps the most significant outcome of *Citizens United* has been the creation of Super PACs.²⁶ Super PACs comprise the wealthiest political donors—corporations, labor unions, nonprofit organizations, and individuals—and enable a web of dark money to be ushered into political causes through nonprofits that do not disclose their donors.

The Commission finds that the negative repercussions of *Citizens United* are complex and largely unfixable at the state level. Sizeable progress may be best left to Congress. One effort is the DISCLOSE Act, which was previously introduced in Congress several times.²⁷ However, the Commission also finds that there is potential for small gains against the repercussions of *Citizens United* that can be considered for enactment at the state level.

Campaign Spending Commission Website

The mission of the Campaign Spending Commission is to maintain the integrity and transparency of the campaign finance process by enforcing the law, educating the public, administering public financing, and training campaign committees in order to encourage compliance. The [Campaign Spending Commission website](#) is a public resource that provides a wealth of information and data relating to campaigns and elections. The website also provides detailed information and data relating to candidates, candidate and

²⁵ [Citizens United Explained | Brennan Center for Justice](#). Accessed 16 Nov. 2022.

²⁶ *Id.*

²⁷ *Id.*

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noncandidate committees, contribution limits, electioneering communications, and election summaries. The website also has data on the amount of public funding disbursed in every election since 1980.

Partial Public Financing for Elections

The Commission finds that publicly funded elections can help counter the repercussions of *Citizens United* because public funding expands the reach of many small donors and can relieve candidates of the need to rely on the support of special interest groups or large donors.

[This proposal](#) of the Commission would increase the amount of partial public financing available for all offices up for election, but in varied amounts. The increase in the maximum amount of public funds for an office would be based on either a percentage increase from the existing allotment or increase, or establishment of, the expenditure limit of each office. The measure also provides a downward adjustment of the minimum amounts of qualifying contributions for the Office of the Prosecuting Attorney for each of the counties. To administer the changes in the law, this proposal would also provide an appropriation to the Campaign Spending Commission to establish two positions.

The Commission further notes that the increased amounts of partial public funding of elections proposed in this bill are intended as a floor, or minimum level. If fiscal resources are or become available, the Commission encourages the Legislature to be bold and devote additional fiscal resources to further the purpose of this bill and to seek additional permanent funding sources for future elections. Implementation of this proposal would assist in diminishing the impact and influence resulting from *Citizens United*.

Campaign Contribution Prohibitions

[This proposal](#) would prohibit state and county elected officials from soliciting and accepting campaign contributions during any regular session or special session of the Legislature, including any extension of any regular session or special session and any legislative recess days, holidays, and weekends. If enacted, this proposal would reduce the negative perception of legislators soliciting or accepting contributions from individuals or organizations that have an interest in matters pending before the Legislature during session.

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Grantee Campaign Contributions

[This proposal](#) would amend the prohibition against contributions to a candidate committee or noncandidate committee by state and county contractors, to include state and county grantees and the owners, officers, and immediate family members of a state or county contractor or state or county grantee.

Fundraisers

In furthering public transparency and improving public confidence in campaigns, [this proposal](#) clarifies what would constitute a fundraiser under Hawaii's election law. This proposal would expand the reach of the requirement to file a notice of intent to hold a fundraiser or fundraiser event to fundraisers for which any price is charged or any contribution is suggested for attendance.

Campaign Spending Cash Contributions

[This proposal](#) would limit the amount of cash contributions a candidate, candidate committee, or noncandidate committee can accept in the aggregate in an election period to \$100. In order to account for such cash contributions, this bill would require that the candidate, candidate committee, or noncandidate committee provide a receipt for each contribution received and maintain a record of the cash contributions.

Unlawful Lobbyist Gifts

[This proposal](#) would prohibit lobbyists from making prohibited gifts to legislators and state employees, with an administrative fine imposed for violations.

Campaign Funds Permitted Uses

[This proposal](#) would establish clear limits on the permitted uses of campaign funds to those purposes that are directly related to the campaigns of candidates. In so doing, this bill would curtail the current practice of donating excess campaign funds to certain community projects or endeavors.

Prohibition of Campaign Funds for Two Tickets

[This proposal](#) would eliminate the use of campaign funds to purchase up to two tickets for an event or fundraiser held by another candidate or committee. The Commission finds that this practice is commonplace amongst legislators and gives the appearance of impropriety since the campaign funds of the purchaser/candidate are

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likely contributions made to the purchaser/candidate and not to the candidate holding the event or fundraiser.

Super PACs

[This proposal](#) attempts to reduce the influence of money in determining political outcomes at the state level by increasing the amount of the fine imposed for campaign spending law violations by certain noncandidate committees. Specifically, the higher fines may be assessed against a noncandidate committee making only independent expenditures and that has received at least one contribution of more than \$10,000, or spent more than \$10,000, in an election period. In addition, the proposal allows the Campaign Spending Commission to order that a fine assessed against a noncandidate committee, or any portion thereof, be paid from the personal funds of an officer of the noncandidate committee.

Voter Education

The Commission finds that Hawaii's voter turnout is well below the national average for each election.²⁸ In addition, registered voters may not have access to or be aware of information on the candidates or issues on their ballots. The Commission vetted the draft of [this proposal](#) with the Office of Elections, as it would require the Office of Elections to prepare a voter information guide to educate voters on each candidate's positions and their candidate statements and provide ballot question analyses. The bill would also appropriate funds to the Department of the Attorney General, Legislative Reference Bureau, and counties for the preparation of the ballot analyses and to the Office of Elections for the preparation and distribution of the voter information guides.

Term Limits

[This proposal](#) would propose a constitutional amendment to prohibit a person from serving as a member of the Legislature for more than 16 years during the person's lifetime. The Commission discussed this proposal at great length and considered the testimony received and personal viewpoints of each commissioner. The Commission looked at similar provisions in other states for guidance and debated the well-balanced

²⁸ [Hawaii's Voter Turnout Plunged In 2022 Election - Honolulu Civil Beat](#). Accessed 16 Nov. 2022.

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pros and cons of this proposal, which was reflected in the slim, 4-3 margin by which the Commission adopted the motion to adopt this proposal.

One argument against the term limits in this proposal is that it is unnecessary, as over the past decade a sizeable turnover in each chamber has occurred naturally. Over the last decade the turnover of legislators in the House of Representatives was over 50%, and in the Senate more than 33%. As noted previously in this Final Report, over 20 individuals will take the oath of office to become members of the Hawaii State Legislature as a result of the General Election of 2022. However, an argument for this proposal is that people feel a proposal like this is necessary and that a limit on the duration of holding state elected office may reduce the potential for corruption and allow for the periodic infusion of fresh ideas and services to constituents.

The Commission finds that this proposal, if passed by the Legislature, would not go on the ballot until the General Election of 2024. The Commission also finds that out of fairness to legislators serving in the Legislature as of the General Election of 2024 or elected to the Legislature before or during the General Election of 2024, the prohibition should not apply to those terms. Therefore, the 16-year term limit in this proposal would apply to those legislators elected at the General Election of 2026 and thereafter.

Appendices

Appendix A – House Resolution No. 9, Regular Session of 2022

Appendix B – Meeting Minutes

Appendix C – Proposed Legislation

Appendix D – Interim Report (including appendices) submitted March 31, 2022

Appendix A

House Resolution No. 9, Regular Session of 2022

Appendix A

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.R. NO. 9

HOUSE RESOLUTION

ESTABLISHING A COMMISSION TO IMPROVE STANDARDS OF CONDUCT.

1 WHEREAS, the strength and stability of our democratic
2 government rely on the public's trust in the government's
3 institutions and officers to act with prudence, integrity, and
4 good, ethical judgment; and
5

6 WHEREAS, this body recognizes the consequences of a loss of
7 public trust in governmental institutions and their officers and
8 the resultant threats posed to an orderly, effective government;
9 and
10

11 WHEREAS, this body notes that certain safeguards, including
12 ethics, lobbying, and campaign spending laws, are in place to
13 prevent this loss of public confidence in and good reputation of
14 governmental institutions and their officers; now, therefore,
15

16 BE IT RESOLVED by the House of Representatives of the
17 Thirty-first Legislature of the State of Hawaii, Regular Session
18 of 2022, that a Commission to Improve Standards of Conduct is
19 hereby established; and
20

21 BE IT FURTHER RESOLVED that the purpose and duties of the
22 Commission shall be to:
23

24 (1) Review and assess existing state laws and rules
25 relating to standards of conduct of public officers
26 and employees, including but not limited to:
27

28 (A) The Code of Ethics under chapter 84, Hawaii
29 Revised Statutes;
30

31 (B) Lobbying laws under chapter 97, Hawaii Revised
32 Statutes;
33



H.R. NO. 9

1 (C) Campaign finance laws under chapter 11, Hawaii
2 Revised Statutes; and

3
4 (D) Any other applicable laws and rules;

5
6 (2) Ensure the state laws and rules reviewed and assessed
7 pursuant to paragraph (1) contain clear standards,
8 enforcement, and penalties; and

9
10 (3) Provide recommendations to further the goals of the
11 Code of Ethics, lobbying laws, campaign finance laws,
12 and other applicable laws and rules that will increase
13 awareness of, compliance with, and deterrent effects
14 of those laws and rules; and

15
16 BE IT FURTHER RESOLVED that the Commission consist of the
17 following seven members who shall be appointed by the Speaker of
18 the House of Representatives:

19
20 (1) Judge Daniel R. Foley (Ret.), who shall serve as
21 chair;

22
23 (2) Robert D. Harris, Executive Director of the State
24 Ethics Commission;

25
26 (3) Kristin E. Izumi-Nitao, Executive Director of the
27 Campaign Spending Commission;

28
29 (4) Sandy Ma, Executive Director of Common Cause Hawaii;

30
31 (5) Barbara C. Marumoto, Former State Representative;

32
33 (6) Janet Mason, League of Women Voters of Hawaii; and

34
35 (7) Florence T. Nakakuni, Former U.S. Attorney for the
36 District of Hawaii; and

37
38 BE IT FURTHER RESOLVED that the Commission is requested to
39 consult with the Department of the Attorney General and public
40 interest organizations with expertise in the areas of ethics,
41 campaign finance, and standards of conduct, such as the National
42 Conference of State Legislatures, Council of State Governments,



H.R. NO. 9

1 and Brennan Center for Justice at the New York University School
2 of Law; and

3
4 BE IT FURTHER RESOLVED that the Commission is requested to
5 submit an interim report of findings and recommendations,
6 including any proposed legislation, to the House of
7 Representatives by March 31, 2022, and a final report, including
8 any proposed legislation, to the House of Representatives by
9 December 1, 2022; and

10
11 BE IT FURTHER RESOLVED that certified copies of this
12 Resolution be transmitted to Robert D. Harris, Executive
13 Director of the Hawaii State Ethics Commission; the Chair of the
14 Hawaii State Ethics Commission; Kristin E. Izumi-Nitao,
15 Executive Director of the Campaign Spending Commission; Holly T.
16 Shikada, Acting Attorney General; the Chair of the Campaign
17 Spending Commission; Tim Storey, Executive Director of the
18 National Conference of State Legislatures; the Executive
19 Director of the Council of State Governments; the President of
20 the Brennan Center for Justice; Sandy Ma, Executive Director of
21 Common Cause Hawaii; the Board of the League of Women Voters of
22 Hawaii; Judge Daniel R. Foley (Ret.); Florence T. Nakakuni;
23 Barbara C. Marumoto; and Janet Mason.

24
25
26 OFFERED BY: 

FEB 17 2022



Appendix B

Meeting Minutes

Commission to Improve Standards of Conduct

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Sandy Ma, Executive Director of Common Cause Hawaii;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii;

Vice Chair Harris convened the meeting at 2:02 pm. All members of the Commission attended the meeting.

I. Public testimony

The Commission noted that they received written testimony from one individual. No oral testimony was received by the Commission.

The Commission agreed as a policy to allow for public participation through written or oral testimony at the beginning of meetings, and as may be appropriate at other times during future meetings. In addition, the Commission will make available to public all written testimony it receives via posting on the House of Representatives website.

The Commission's website can be found here: [Committees \(hawaii.gov\)](https://committees.hawaii.gov)

II. Update on current status of bills before the Legislature

The Commission highlighted certain bills from its recommendations in the Interim Report and provided an update on its status of those bills. Specifically, the following bills were discussed briefly:

- SB2930 SD2;
- SB555 SD1 HD1;
- HB1475 HD1 SD1; and
- HB1427 HD1 which has been signed into law as Act 3.

Appendix B – Meeting Minutes April 14, 2022

III. Schedule future meetings

The Commission considered the due date of its Final Report of December 1, 2022, and considering the number of opportunities that the Commission would be able to meet to discuss topics for recommendation in its Final Report. The Commission sketched out a meeting schedule that could consistently take place every two weeks and comfortably allow for 14 meetings prior to the due date of the Final Report.

The Commission also plans to save the final few meetings to review the draft Final Report, proposed legislation, and discuss any final recommendations.

The Commission discussed what members can commit to scheduling and a potential framework for how the meetings should be unfold. For most meetings the Commission will plan to invite a facilitator who is experienced in the given topic for discussion and who can help set the meeting's agenda, answer questions of the commissioners, and help guide the conversation and topic for that meeting.

The commissioners referred to the topics recommended in the Interim Report for further exploration and determine which topics should be amongst the initial four or five topics to discuss. The Commission agreed that topics can be discussed at more than one meeting if necessary, or if the facilitator brings up any issues outside of that week's agenda topic.

The Commission agreed to schedule the following five topics to be discussed during the months of June and July.

Meeting scheduled for June 1, 2022: Ethics and Gifts

The topic for this meeting will concern gift restrictions for lobbyists to create a reciprocal prohibition that state employees are currently subject. One issue along these lines that the Commission wants to be mindful of is the First Amendment rights under the Constitution. The Commission will invite certain speakers with experience and expertise and consider any individuals with significant insight into First Amendment rights to help identify areas of concern that the Commission should be aware. However, the ethics subject may not require outside speakers for the Commission. Concepts for the Commission to consider going forward and if a consensus is reached proceed with the requisite research and bill drafting as necessary. Topics could be lobbyist training, nepotism prohibitions, disclosure of lobbyist supported bills, legislative rules to tighten up conflict of interest provisions, and an aloha gift exception for the public.

Consideration will be given to the idea of consulting with county representatives and stakeholders familiar with ethical issues and concerns.

Vice Chair Harris will take the lead on preparing for this topic.

Appendix B – Meeting Minutes April 14, 2022

Meeting scheduled for June 15, 2022: Election Law Modernization

This planned meeting will center on prospects for reforming election laws to prevent corruption. Specific proposals may include ranked choice voting, "jungle" primary, top two primary election, term limits, and voter education. Potential invitees would be the State Office of Elections, county election divisions, and national advocates for such proposals.

Members Ma and Mason will take the lead on preparing for this topic.

Meeting scheduled for June 29, 2022: Campaign Finance Reform

The topic of campaign financing and public funding of elections will be considered, including the potential for partial-public funding of elections. The Commission noted that the partial-public funding of elections law has not been amended since 1995, making the law primarily feasible for local county races only. Other related concerns that the Commission will pursue are dark money contributions and increases in penalties for Super PAC violations.

Member Izumi-Nitao will take the lead on preparing for this topic.

Meeting scheduled for July 13, 2022: Criminal Prosecution and Fraud

The Commission will consider the idea of increased criminal penalties and tools for enforcement agencies. The commissioners discussed potential invitations on this topic that should be sent to the Attorney General's Office, the United States Attorney, county Prosecutors, and former Attorneys General.

The Commission also discussed potential ways to make available time in cases where multiple invitees can discuss certain topics with the Commission. Suggestions were made to hold meetings on multiple days in a row or potentially creating a panel discussion.

The Commission suggests that invited speakers pinpoint specific legislation that would assist the Commission in drafting legislation for introduction next year that would specifically amend statutory provisions or create new laws in the Hawaii Revised Statutes.

Topic of legislative process changes, reflection on best practices and what other Legislatures are doing to accomplish such tasks.

Members Nakakuni and Marumoto will take the lead on preparing for this topic.

Meeting scheduled for July 27, 2022: Open Government Laws

This meeting is planned to center on issues pertaining to Sunshine laws, disclosure of government records, and informational practices of government (including the Legislature). It was suggested that it might be informative to include a Hawaii government agency tasked with compliance of these laws. Potential facilitators to invite are the

Appendix B – Meeting Minutes April 14, 2022

Director of the State Office of Informational Practices and the President and Executive Director of The Civil Beat Law Center for the Public Interest.

Members Ma and Mason will lead this topic.

Topics identified for discussion are just a start to the topics that will be discussed and considered as recommendations for the Commission's Final Report. In August after these initial meetings have concluded, the Commission will reassess its progress and determine a plan for the following months of August, September, and October.

The Commission agreed to save potential recommendations to change legislative rules until later since some of the initial discussions and recommendations of the Commission could impact such changes to the legislative rules.

IV. Other matters

The Commission agreed to circulate draft agendas a few weeks in advance of the schedule meeting to make sure meeting agendas are complete, and inform commissioners about the content of the session (including any invited facilitators or speakers for that meeting).

The Commission will allow invited facilitators or speakers to address to any particular subject of discussion before the Commission or in its Interim Report.

The Commission agreed to more heavily publicize the upcoming meetings to ensure that the public has sufficient awareness of the upcoming topics and the opportunity to prepare written testimony or present oral testimony.

In future meetings the Commission is considering hybrid meetings that will take place via Zoom and in-person in a conference room at the Capitol.

The next meeting will take place on Wednesday June 1, 2022, from 2pm to 4:30pm and every two weeks thereafter.

The meeting adjourned at 3:33 pm.

Appendix B – Meeting Minutes June 1, 2022

Commission to Improve Standards of Conduct

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Sandy Ma, Executive Director of Common Cause Hawaii;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii.

Chair Foley convened the meeting at 2:01 pm. All members of the Commission attended the meeting.

Housekeeping matters

The Commission's website, which includes related materials and information such as House Resolution No. 9 (Regular Session of 2022), the Commission's Interim Report, and meeting notices and minutes, can be found here: [Committees \(hawaii.gov\)](#)

Recordings of the Commission's public meetings may be viewed on the House of Representatives' YouTube channel found here: [Hawaii House of Representatives - YouTube](#)

The Commission may be contacted via email at standardsconduct@capitol.hawaii.gov

The Commission will meet in the upcoming weeks on the following topics, which are summarized in greater detail in the Commission's [April 14, 2022, Meeting Minutes](#):

- June 15, 2022: Elections and Voting;
- June 29, 2022: Campaign Finance Reform;
- July 13, 2022: Criminal Prosecution and Fraud; and
- July 27, 2022: Open Government Laws.

No decision-making occurred at the meeting. Any proposals made by the Commission to the House of Representatives in its Final Report will be the subject of future public meetings with public input.

Appendix B – Meeting Minutes June 1, 2022

I. Public testimony

The Commission requested that testifiers limit their testimony to three minutes each.

The Commission heard oral testimony from two individuals that centered on creating a statement of principles of our values as a community such as access, transparency, accessibility, and accountability and recommendations concerning fundraisers, legislative committee decision-making and ending certain unilateral powers of committee chairs.

II. Discussion of ethics related reform

The Commission presented the [ethics discussion slides](#) which included the following topics of discussion: Ethics Commissions, Lobbyists, Legislators, Anti-Nepotism, Transparency, and Legislator Civility/Aloha Rule.

Ethics Commissions

Funding

The Commission discussed having an independent commission analyze the workload and budget allocations for watchdog agencies, such as the ethics commissions, and make funding recommendations to the county councils and Legislature for these agencies. The intent of the independent commission is to make recommendations on resource allocations, not to put the various watchdog agencies together or get into their operational or supervision functions. The primary reason for establishing the independent commission is to ensure that the agencies have the capacity to fulfill their constitutional mandates. The secondary reason is to create some independence and protection for watchdog agencies.

Streamlining

The Commission proposed streamlining registration and reporting requirements for lobbyists and others, possibly through statutory flexibility.

Lobbyists

The Commission presented the following reform proposals specifically related to lobbyists:

- Banning lobbyists from offering prohibited gifts, with some potential exceptions based on existing exceptions for legislators and state employees. The hope is to mitigate gift giving by lobbyists and reduce the pressure on legislators and state employees to decline or navigate these situations;

Appendix B – Meeting Minutes June 1, 2022

- Requiring registered lobbyists to complete a mandatory training program before filing their initial lobbyist registration and before renewing their registration for the next legislative cycle. The training could either be a live, online webinar or self-directed, online training module; and
- Requiring lobbyists to report on the administrative rules or bill numbers lobbied on, rather than the subject area of the legislative and administrative action that was supported or opposed (Hawaii Revised Statutes §97-3(c)(5)).

The Commission also discussed concepts to prohibit lobbyists from fundraising for candidates and prohibit lobbyists who are advising the campaign of any sitting elected official running for re-election or higher office from representing any entities under the jurisdiction of the committees that the elected official sits on.

Legislators

Conflicts of interest

The Commission discussed proposed conflicts of interest amendments to House and Senate rules to:

- Make recusal a default requirement if a conflict exists, rather than simply disclosure of a potential conflict;
- Define conflict as personal, familial, business, property, or financial interest;
- Specify that conflict of interest exemptions must be general and apply to a broad class; and
- Require a floor vote if there is a question of whether a conflict exists or a waiver is needed.

The suggested proposal is intended to be broad and prevent legislators with a conflict of interest from lobbying or working on a bill. The Commission drafted some proposed rule language, which can be provided.

The commissioners also discussed proposing statutory amendments to address legislator conflicts of interest since it may be difficult to change House and Senate rules but recognized that there may be constitutional issues.

Financial disclosure/prohibition

The Commission discussed the following three proposals to address legislator financial issues:

- Requiring legislators to disclose business connections with lobbyists or lobbying organizations. Specifically, the Commission proposed adding a new subsection to

Appendix B – Meeting Minutes June 1, 2022

section 84-17(f)(8) to require every member of the Legislature to disclose the name of any lobbyist or organization that is required to file lobbying contributions and expenditures reports and is:

- A partner of the legislator;
- An employee of the legislator;
- An officer or director of the legislator's employer; or
- A client of the legislator, the legislator's partner, or the legislator's employer where the client provided at least \$10,000 of income during the preceding calendar year;
- Prohibiting legislators from working as lobbyists or for lobbying entities; and
- Designating legislators as full-time employees, prohibiting secondary employment or similar financial relationships, and directing the Commission on Salaries to consider ethical concerns as a factor in determining salaries.

The Commission also briefly discussed its continued support of concepts to regulate and disclose the receipt of protocol gifts, as mentioned in its Interim Report.

Contact disclosure

The Commission discussed the topic of requiring every elected official, executive official, and staff member or lobbyists to report a monthly lobbyist meeting disclosure contact log to the state or county ethics commission for publication on their website.

Nepotism

The Commission discussed establishing a bright-line rule about promotion and hiring decisions. The proposed legislative concept includes:

- Prohibiting the employment, hiring, or promotion of a family member or member of a household;
- Prohibiting the hiring or supervision of a business owned by a relative; and
- Allowing the continuation of a job assignment already existing at the date of passage.

Transparency

The Commission discussed proposed recommendations to amend section 24-1, Hawaii Revised Statutes, to:

- Require each house of the Legislature to post on its website for public inspection legislative allowance expenditures on a rolling basis for each member; and

Appendix B – Meeting Minutes June 1, 2022

- Prohibit legislators from claiming legislative allowance funds as payment or reimbursement for any expenses paid with campaign funds.

Legislator Aloha/Civility Rule

The Commission discussed the various types of complaints about legislator behavior and how existing mechanisms may not work. Commissioners recognized the difficulty in drafting and enforcing a legislator aloha/civility rule and the potential for legal challenges. Other proposed ideas to address the issues included:

- Establishing an intermediary process that involves independent review, protection of confidentiality where necessary, and reporting; and
- Having legislators, before each session, sign a voluntary pledge of civility and conduct themselves during the session.

The Commission will work on drafting rule or statutory proposals for consideration.

III. Other matters

Comments from the Commissioners on the draft agenda for the meeting on June 15, 2022, are requested by Friday. The June 15, 2022, meeting on elections and voting will be led by Commissioners Ma and Mason.

Public written testimony will be posted on the Commission's webpage.

Final comments from testifiers:

- The first testifier indicated that they will be working on statement of principles to share with the Commission; and
- The second testifier stated that reducing the unilateral power of individuals by requiring votes of the committees would address issues involving abuse of power. The testifier also suggested that fundraising (including both fundraising events and acceptance of donations) should be prohibited during session, and that legislators be reminded that state employees work for the Governor, not the legislator.

The public can interact with Commissioners directly or with the Commission generally through email or future meetings. The Commission is open to any public input at any time on any topic. The next four Commission meetings are on certain topics. However, the

Appendix B – Meeting Minutes June 1, 2022

Commission will be meeting every two weeks until December and will come back to the various topics discussed.

The meeting adjourned at 3:46 pm.

Appendix B – Meeting Minutes June 15, 2022

Commission to Improve Standards of Conduct

Members:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Sandy Ma, Executive Director of Common Cause Hawaii;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii;

Chair Foley convened the meeting at 2:02 pm. All Commissioners were present for the meeting except Vice Chair Robert Harris and member Florence Nakakuni who were excused.

Resources:

The Commission's website, which includes related materials and information such as House Resolution No. 9 (Regular Session of 2022), the Commission's Interim Report, and meeting notices and minutes, can be found here: [Committees \(hawaii.gov\)](#)

Recordings of the Commission's public meetings may be viewed on the House of Representatives' YouTube channel found here: [Hawaii House of Representatives - YouTube](#)

The Commission may be contacted via email at standardsofconduct@capitol.hawaii.gov

The Commission will meet in the upcoming weeks on the following topics:

- June 29, 2022: Campaign Finance Reform;
- July 13, 2022: Criminal Prosecution and Fraud; and
- July 27, 2022: Open Government Laws.

Limited decision-making occurred at the meeting. Any proposals or recommendations to be made by the Commission to the House of Representatives in its Final Report will be the subject of future public meetings with public input.

Appendix B – Meeting Minutes June 15, 2022

I. Call to order

Due to technical difficulties, the first few minutes of the hearing, including the opening remarks and the start of public testimony, were not audible.

II. Approval of minutes

The Commission adopted the minutes from the April 14, 2022, meeting. The minutes for the June 1, 2022, meeting were briefly discussed but adoption of the minutes was deferred until the next meeting.

III. Public testimony

The Commission received written public testimony from numerous individuals.

The Commission heard oral public testimony pertaining to:

- Conflicts of interest when legislators are practicing attorneys or profit sharing partners in a law firm but cannot disclose the conflict due to attorney-client privilege;
- Subjecting the Legislature to Sunshine Law and state ethics requirements;
- The benefits of legislative term limits;
- General barriers for new candidates to enter an election;
- Concerns over legislation introduced by former legislators subject to pending criminal investigations; and
- An examination of how empty seats are filled when a legislator resigns.

IV. Discussion of reforms related to elections and voting

Members Mason and Ma facilitated presentations by external presenters on term limits, the one-party dominance in Hawaii, and voter education.

- a. Jessica Jones Capparell, Director of Government Affairs at the League of Women Voters of the United States, provided a presentation on term limits, including an overview of the history of the implementation of term limits on a federal level and state level as well as common arguments for and against the use of term limits. It was noted that the League of Women Voters opposes term limits. The League of Women Voters suggests reforming campaign spending, including the implementation of small dollar contribution systems and donor disclosure; addressing redistricting and gerrymandering; and fighting voter suppression laws as alternatives to term limits.
- b. Dr. Neal Milner a local columnist and former political science professor at the University of Hawaii provided a presentation on the dominance of the one-party

Appendix B – Meeting Minutes June 15, 2022

system in Hawaii. Dr. Milner discussed the effect of multi-party systems on corruption in politics, including the public perception of corruption, and whether the lack of party competitiveness can be changed by the Commission. Dr. Milner provided a review of barriers to establishing a viable two-party system in Hawaii, including voting habits, national trends towards hyper-partisanship, nationalization of politics in general, and media coverage. Dr. Milner does not believe the Commission has the legal authority to change the one-party system and although corruption or perceived corruption causes indignation, it has little staying power. Dr. Milner suggests the Commission consider measures to create a system to act in a way similar to an opposition party that can hold candidates accountable.

- c. Donna Oba, President of the League of Women Voters of Hawaii and Raymond de Vega of the State Office of Elections provided presentations on the importance of voter education.
 - i. Ms. Oba provided an overview of the vote411.org website, which includes information on voter eligibility, campaign finance, and candidate responses. The presentation included a tutorial on using the vote411.org website. Ms. Oba noted that vote411 only shows candidates in the primary elections but will show ballot measures and proposed county charter measures for general elections, which may have pros and cons posted by the League of Women Voters. Ms. Oba notes that people in the State are accessing the site at a rate that's comparable to other states of a similar size.
 - ii. Mr. de Vega provided an overview of voter education in Hawaii, specifically discussing the objectives of voter education, including addressing the mechanics of voting; obstacle and problem areas; what education tactics are used in Hawaii; and the future of voter education and how to move forward. Mr. de Vega identified services provided by the Voter Service section of the Office of Elections on voter education with respect to the mechanics of voting. Mr. de Vega identified problem areas, including reaching broad and targeted audiences, maintaining engagement, and identifying effective messaging. Mr. de Vega identified how these obstacles are addressed, including the types of education outreach currently done by the Office of Elections. Mr. de Vega also discussed the process of reviewing and removing voting records. The Commission discussed how Hawaii compares to other states in voter turnout and how to encourage more people to register to vote; Mr. de Vega noted that there was an increase in voter turnout for the 2020 election that was likely due to the move to vote by mail and that focusing on the pre-registration and young voter registration program is an area of growth.

V. Prescriptive Discussion Issues

Appendix B – Meeting Minutes June 15, 2022

Member Mason provided an overview of prescriptive measures to address legislator conduct, including recently introduced legislation. Specifically, the following bills were briefly discussed:

- a. SB216 (2021): Prohibit Agents of Candidates from Assisting Voters — Currently candidates may assist voters via phone but can't do the same in person; SB216 proposed expanding this restriction agents of the candidates.
- b. SB1268 (2021): Adopting a Code of Fair Campaign Practices — Prior case law may make this difficult and legislation would have to be crafted to avoid the issues raised in *Ancheta v. Watada*, 135 F. Supp. 2d 1114 (D. Haw. 2001).
- c. SB741 SD1 HD1 (2022) and SB2250 (2022): Remedies for Faithless Electors — Although rare, there have been incidents of faithless electors in the past. While being a faithless elector has been illegal for some time, there are currently no remedies for actions by faithless electors. SB741 and SB2250 address remedies for faithless electors.

Member Ma provided a brief presentation on ranked choice voting and the unicameral legislative system, including discussing previously introduced bills in Hawaii on such topics. Member Ma provided a high-level overview of the pros and cons of a unicameral Legislature and how it would impact standards of conduct and transparency. SB2162 SD1 HD1 CD1 (2022), which would provide for ranked choice voting in special federal elections and special elections for County Prosecutor was introduced during the 2022 session and is pending Governor Ige's signature.

Member Mason also suggested looking at initiative, referendum, and recall as additional prescriptive measures. "Initiative" allows the voting public to directly put a measure or charter amendment on the ballot; "referendum" allows the public to take action to remove a recently passed measure from the books; and "recall" allows for the removal of a sitting legislator from office. All three approaches bypass the Legislature. "Initiative" is already in place in the counties. Twenty-six states have "initiative" and "referendum" in place, while only sixteen states have "recall" system.

The Commission briefly discussed concerns about implementing initiative, referendum, and recall, specifically allowing constitutional amendments to be put on the ballot by referendum and the creation of a cluttered ballot dominated by special interests. The Commission also discussed ranked choice voting, including expanding ranked choice to additional offices and elections. Chair Foley suggested moving forward all topics discussed today except for a unicameral Legislature. The Commissioners present agreed with that plan of action.

VI. Other Matters

Appendix B – Meeting Minutes June 15, 2022

The Commission's next meeting is scheduled for June 29 at 2:00 pm to discuss campaign finance reform.

Meeting adjourned at 3:55 pm.

Appendix B – Meeting Minutes June 29, 2022

Commission to Improve Standards of Conduct

Members:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Nikos Leverenz, Common Cause Hawaii Advisory Board Member;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii.

Note: Ms. Sandy Ma, Executive Director of Common Cause Hawaii, resigned from the Commission effective June 17, 2022, and Mr. Nikos Leverenz was appointed by Speaker of the House of Representatives Scott Saiki to fill that vacancy via [memorandum](#) on the same day.

Resources:

The Commission's website, which includes related materials and information such as House Resolution No. 9 (Regular Session of 2022), the Commission's Interim Report, and meeting notices and minutes, can be found here: [Committees \(hawaii.gov\)](#)

Recordings of the Commission's public meetings may be viewed on the House of Representatives' YouTube channel found here: [Hawaii House of Representatives - YouTube](#)

The Commission may be contacted via email at standardsofconduct@capitol.hawaii.gov

The Commission will meet in the upcoming weeks on the following topics:

- July 13, 2022: Criminal Prosecution and Fraud; and
- July 27, 2022: Open Government Laws.

Limited decision-making occurred at the meeting. Any proposals or final recommendations to be adopted by the Commission and subsequently submitted to the

Appendix B – Meeting Minutes June 29, 2022

House of Representatives in its Final Report will be the subject of future public meetings and take into consideration input from the public.

I. Call to order/Roll call

Chair Foley convened the meeting at 2:01 p.m. All Commissioners were present for the meeting, except Commissioner Marumoto who was excused.

II. Approval of minutes

The minutes from the June 1, 2022, and June 15, 2022, meetings of the Commission were adopted.

III. Public testimony

The Commission received written public testimony from numerous individuals.

The Commission heard oral public testimony from two individuals pertaining to:

- Full public funding for all state and county elections in Hawaii;
- Banning the solicitation or acceptance of campaign donations during the legislative session;
- Reducing the cap on campaign donations;
- Banning contributions from corporations and unions;
- Limiting the amount of money in candidates' campaign war chests; and
- Concerns that large disparities in the amount of campaign funds could deter potential candidates from running for elected office.

IV. Discussion of reforms related to campaign finance reform

Commissioner Izumi-Nitao facilitated a presentation on public funding of elections that was provided by the Campaign Spending Commission staff and Jonathan Wayne, Executive Director of the Maine Clean Election Act Program. The presentation and discussion also concerned campaign contributions and expenditures; expanding the government contractor ban; enhancing the fundraiser ban; and increased penalties for Campaign Spending Commission violations and administrative investigative tools. More specifically, the presentation detailed the following:

- a. Commissioner Izumi-Nitao discussed the mission, structure, staff, and duties of the Campaign Spending Commission.
- b. Tony Baldomero, the Associate Director of the Campaign Spending Commission, provided a historical overview of the partial public funding of elections in Hawaii,

Appendix B – Meeting Minutes June 29, 2022

including how it has worked in past elections. Mr. Baldomero also discussed the Hawaii County Council comprehensive public funding pilot program.

- c. Jonathan Wayne, Executive Director of the Maine Clean Election Act Program, provided a presentation on the origin, scope, structure, and funding of the Maine Clean Election Act Program, which provides full public financing for candidates for Governor and the Legislature who volunteer to participate in the program. Other jurisdictions with public financing for elections include New York City and Seattle. Mr. Wayne urged the Commission, if it is interested in pursuing public funding of elections, to study the issue and other programs, explore options, and design a program that fits and is tailored specifically to Hawaii. Mr. Wayne is skeptical about public campaign funding as an antidote to isolated instances of public corruption. Mr. Wayne urged the Commission to consider issues such as whether the cost of campaign fundraising poses a barrier to new individuals joining elected public service; whether elected officials feel that they are independent from campaign contributors; and whether there is an unhealthy relationship between elected officials and individuals who have an interest before state government. Mr. Wayne feels that corruption in itself is not the right rationale for publicly funded elections.
- d. Tony Baldomero of the Campaign Spending Commission discussed possible bills related to public funding of elections for the Commission's consideration.
- e. Commissioner Izumi-Nitao discussed the different contribution limits to candidates (depending on the office that they are seeking) and the eight authorized expenditures of campaign funds. Commissioner Izumi-Nitao also discussed possible bills related to further restricting campaign contributions and expenditures for the Commission's consideration. The Commission further discussed whether the expenditure of campaign funds for any purpose other than a purpose directly related to the campaign was appropriate. In addition, the Commission discussed how often and how much in campaign funds is used for purposes other than those directly related to the campaign. Tony Baldomero estimated that over 90 percent of campaign funds are expended for a purpose directly related to the candidate's campaign.
- f. Gary Kam, General Counsel of the Campaign Spending Commission, explained the current government contractor ban. The Commission discussed the feasibility of prohibiting state or county contractors from making campaign contributions before the execution of a contract, such as when a contractor applies or places a bid for a contract. (Existing law prohibits government contractors from making contributions between the execution and completion of the contract.) Mr. Kam discussed possible bills related to expanding the government contractor ban for the Commission's consideration.
- g. Commissioner Izumi-Nitao discussed enhancing the ban on fundraisers. If signed by the Governor, S.B. No. 555, S.D. 1, H.D. 1, which prohibits elected state and county officials from holding fundraisers during any regular or special session of the

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Legislature, would take effect on January 1, 2023. Commissioner Izumi-Nitao explained that the policy intent of requiring the filing of fundraiser notices is transparency. The Commission discussed whether transparency would be heightened by requiring fundraiser notices to be filed either before or after the actual event. Chair Foley expressed concerns with some of the provisions of S.B. No. 555, S.D. 1, H.D. 1, and how they would actually operate. Commissioner Izumi-Nitao discussed possible bills related to increasing restrictions on fundraisers for the Commission's consideration.

- h. Gary Kam set forth the administrative fines for violations of the campaign spending laws. In lieu of an administrative penalty, the Campaign Spending Commission may refer the violation for criminal prosecution. Mr. Kam explained some of the provisions of S.B. No. 665, S.D. 1, H.D. 2, C.D. 1, which has been enacted as Act 181, Session Laws of Hawaii 2022. Mr. Kam also discussed possible bills related to increasing penalties for campaign-spending violations and strengthening the Campaign Spending Commission's administrative and investigative tools for the Commission's consideration.

V. Other matters

Chair Foley reminded the public that the Commission is open to public input at any time and at its next meeting the Commission will discuss potential topics for future meetings to take place in August and September. Procedurally the agenda for the Commission's next meeting will include the discussion for such topics.

Chair Foley encouraged each subject-matter facilitator of the Commission to begin deliberating potential legislative bills and coordinating the drafting of such bills for eventual submission and further consideration of the Commission. Chair Foley also reminded the members of the need to begin working on the Commission's Final Report. Chair Foley informed the public that all bills proposed by the Commission will be open to public comment at a future meeting.

Commissioners discussed how best to address issues that have yet to be decided by the Commission, which must occur before bills can be drafted. There was a suggestion that at the next meeting, the Commission lay out its course of action for the next several meetings. Chair Foley suggested that the Final Report can set forth the differing views, if any, of the members of the Commission on various subjects, including their pros and cons. Chair Foley prefers that the Commission make recommendations, even if the recommendations are not adopted unanimously. Ultimately, it is the Legislature that will decide on the Commission's recommendations. Chair Foley remarked that all of these topics can be discussed at the July 13, 2022, meeting under agenda item "Other matters".

Commissioner Izumi-Nitao expressed a preference for an independent third party to conduct a study on public funding for campaigns so that any final proposal is strategic, well-tailored, and acceptable to the State so that it commits to the public funding program.

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Chair Foley recommended that members of the Commission take note of ideas that seem to face no opposition and could be agreed upon by consensus by the Commission; these ideas could begin to be drafted into bills. Those bill drafts would then be presented to the Commission for consideration and public hearing.

The Commission's next meeting is scheduled for July 13 at 2:00 p.m. to discuss criminal prosecution and fraud.

The meeting adjourned at 3:35 p.m.

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Commission to Improve Standards of Conduct

Members:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Nikos Leverenz, Common Cause Hawaii Advisory Board Member;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii.

Note: Ms. Sandy Ma, Executive Director of Common Cause Hawaii, resigned from the Commission effective June 17, 2022. To fill that vacancy the Speaker of the House of Representatives appointed Mr. Nikos Leverenz via [memorandum](#) to serve as a Commissioner beginning June 17, 2022.

Resources:

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The Commission may be contacted via email at standardsofconduct@capitol.hawaii.gov

Limited decision-making occurred at the meeting. Any proposals or final recommendations to be adopted by the Commission and subsequently submitted to the House of Representatives in its Final Report will be the subject of future public meetings and take into consideration input from the public.

Appendix B – Meeting Minutes July 13, 2022

I. Call to order/Roll call

Chair Foley convened the meeting at 2:01 p.m. All members were present for the meeting except Commissioner Izumi-Nitao, who was excused. Tony Baldomero, Associate Director of the Campaign Spending Commission, attended on behalf of Commissioner Izumi-Nitao.

II. Approval of minutes

The minutes of the June 29, 2022, meeting of the Commission were approved and adopted.

III. Public testimony

The Commission heard oral public testimony from one individual pertaining to:

- Concerns about whether existing laws are strong enough to stop corruption;
- Inefficiencies of the legislative process from a public input standpoint;
- Concerns with legislative power being concentrated in just a few legislators; and
- The need for a systemic change that allows everyone to have a voice in the democratic process, including the need for discussion on legislation to occur in the public view.

IV. Discussion of criminal prosecution and fraud reforms

Commissioners Nakakuni and Marumoto facilitated a panel discussion of representatives from various agencies relating to strengthening the investigation and prosecution of fraud and public corruption. Commissioner Nakakuni provided a historical overview of the events leading to the formation of the Commission, including:

- Most recently, two former state legislators who plead guilty to federal wire fraud charges in connection with taking bribes from a local businessman in exchange for influencing legislation;
- Honest services fraud charges against five employees of the City and County of Honolulu Planning and Permitting Department for accepting bribes;
- Wire fraud conspiracy charges against three former high-level City officials; and
- Former City Prosecuting Attorney and co-defendants charged with conspiracy to commit honest services fraud and other crimes.

Commissioner Nakakuni noted that these cases are evidence of serious public corruption in our State. The Commissioner said there are serious challenges with state law in handling such cases, while federal law is better tailored to charge corruption. Federal mail and wire fraud statutes allow for a charge of a scheme to defraud, which is important because none of these cases involve a one-time lapse of judgment.

The following individuals were invited to participate in the panel:

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- Jeff Felmann, Federal Bureau of Investigation (FBI) supervisory agent, accountant, and head of FBI's white collar squad in Hawaii;
- Matt McDonald, FBI supervisory special agent, assistant division counsel for FBI's Honolulu division, and former head of FBI's white collar squad in Honolulu;
- Steven S. Alm, former U.S. Attorney for the District of Hawaii (1994-2001) and current Prosecuting Attorney for the City and County of Honolulu;
- Holly Shikada, Attorney General of Hawaii;
- Cheuk Fu Lui, Deputy Attorney General, Criminal Justice Division;
- Gary Yamashiroya, Deputy Attorney General;
- Margery S. Bronster, former Attorney General of Hawaii (1995-1999);
- Doug Chin, former Lieutenant Governor of Hawaii (2018) and former Attorney General of Hawaii (2015-2018);
- Andrew H. Martin, Prosecuting Attorney of the County of Maui; and
- Rebecca V. Like, Prosecuting Attorney of the County of Kauai.

A. Jeff Felmann and Matt McDonald provided a presentation of the types of white-collar crime cases they address, including schemes to defraud and public corruption, and the primary statutes upon which they rely for charges, including:

1. 18 U.S.C. § 666, honest services fraud, where someone in a position of trust has taken money from someone else to do something they wouldn't normally do for others, taking advantage of the position they are in. The federal nexus for actions by state and county employees is typically the receipt of federal funds (including grant money) by the agency they work for. Minimum dollar thresholds apply. This is the statute the FBI uses in place of a state bribery statute; it doesn't necessarily require a wire or mailing. Obstacles include the time it takes to gather evidence and piece things together. Usually the federal statute of limitations is five years. Use of federal grand jury and subpoena power help in ways unavailable to the State.
2. 18 U.S.C. §§ 1341 and 1343, mail and wire fraud, are ways the federal government can tie in state criminal conduct by using interstate mechanisms.
3. 18 U.S.C. § 1001, false statements, is one of their most useful tools, along with witness tampering or obstruction of justice.
4. 18 U.S.C. §§ 1510 and 1512, obstruction of criminal investigations or witness tampering. For public corruption cases, someone may try to influence another's testimony. Sometimes the underlying criminal conduct isn't pursued, but obstruction or witness tampering is.
5. 18 U.S.C. § 371, conspiracy. If the FBI is running out of time on a five-year statute of limitations, evidence of a conspiracy might allow the FBI to capture historical events outside of that time frame.

Mr. Felmann and Mr. McDonald noted the FBI is in the process of developing a white-collar crime task force here in Hawaii. In prosecuting public corruption or fraud cases, a decision needs to be made early on if a case will be pursued by the state or federal government. If federal techniques or subpoenas have been used,

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it may limit the State's ability to prosecute; this may present a vulnerability that should be addressed.

Commissioner Marumoto noted prosecuting these cases helps to restore public confidence and that the Commission may want to replicate some of the FBI's methods and perhaps certain federal laws.

- B. Steven Alm discussed how public confidence can be restored when people are held accountable. In the federal system, most people go to prison, which provides an incentive for people to cooperate. He suggested mandatory prison time may be needed and also that an investigative grand jury may be a good approach for the State. He also discussed sentencing issues and the power of the paroling authority. The Commission acknowledged that sentencing and parole authority issues may need to be reviewed but that they are not within the Commission's purview.
- C. Deputy Attorney General Cheuk Fu Lui advised the Commission that the Department of the Attorney General is actively drafting bills to combat public corruption and fraud for the next legislative session. The proposals are very preliminary so could not be commented on at this time. The Department is studying statutes from other state jurisdictions that might assist and considering how the statute of limitations can be expanded.
- D. Holly Shikada reiterated that the Department of the Attorney General is trying to determine what statutes might need to be revised. She discussed the new special investigations and prosecutions division that is being created that will incorporate work on corruption, fraud, and economic crimes and will work closely with the criminal justice division. The Department hopes to introduce a package to deal with corruption and fraud next legislative session. She also briefly discussed the new Department of Law Enforcement.
- E. Margery Bronster discussed her time spent on a law enforcement coalition while she was the Attorney General that included the four county prosecutors, chiefs of police, and U.S. Attorney to vet all criminal law proposals to see if there was agreement on what legislation was needed. She questioned whether that coalition still exists as an opportunity to say that these bills are supported by the State. Regarding promoting the issue of public corruption, she reflected on the tremendous effort that was brought to bear to try to stop a lot of cases from being pursued when she was the Attorney General. Ms. Bronster supported the State ensuring contracts and grants require an affirmation or oath that the signatories are complying with the terms of the grant and the law and that everything in the document is true and commitments are met. When looking at a section 666 case, it may be worth exploring what causes a case to fall through the cracks. She also agreed that the issue of conflicts of interest should be examined, noting she had indicted a sitting senator who was allowed to subsequently vote on her confirmation, with the ethics committee deciding the

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senator had no conflict. On the issue of honest services, the State has a part-time legislature and many legislators and spouses and families of legislators, so the question arises what other jobs they have, what they do for those jobs, and whether those jobs give rise to the potential for backroom dealings.

- F. Doug Chin found three main issues at stake: laws, bandwidth, and tools to battle fraud and public corruption.
1. A lot of great efforts are being made to add to laws we have in the State.
 2. Promote bandwidth in the City prosecutor's office and through the dedicated division at the Department of the Attorney General.
 3. Regarding tools, sometimes the way the State Constitution is interpreted will result in greater limitations in effectively prosecuting these kinds of cases. Another limitation involves state sentencing guidelines and how prison vs. probation is viewed. These state limitations may present opportunities for the federal government to step in.
- G. Andrew Martin discussed the need for government to respond appropriately when public servants or public officials should be prosecuted. Acts of public corruption or other crimes erode public trust in government. Public servants take an oath to faithfully discharge their duties and need to be held to a higher standard. He recommended exploring the possibility of mandatory sentences for public servants, particularly those who defraud or steal from the government. The Commission may want to consider a special classification of offenders who commit acts of fraud, theft, or embezzlement against the government, including abuse of p-cards, overtime, conspiracies to commit these types of acts, perhaps by raising from class C to class B offenses by public servants.
- H. Rebecca Like found of particular interest the issue of increasing campaign spending regulations. She suggested some additional rules could be put into place regarding lobbying, acceptance of large donations, and an increased reliance on public funding. Federal government has additional tools that the State doesn't have at its disposal. She is open to exploring things Mr. Martin and Mr. Alm discussed.

Commissioner Nakakuni discussed that drafting proposed legislation is just a part of the solution. Because of the secretive nature of these crimes, they are hard to detect and prove. The only way we will be successful is if we collectively have the political will to say we won't tolerate corruption because it erodes public trust. The time is ripe to propose tougher laws to prevent, deter, and punish people who engage in corrupt activity and hold them accountable. Offenders should be subject to prison time and forced to disgorge ill-gotten gains.

Commissioner Marumoto noted that if Hawaii adopts the federal procedure of requiring some prison time upon conviction, that it would be adding to our prison population. Our

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correctional facilities are already over capacity and we are merely storing human beings. We should consider shortening the jail sentences of non-violent prisoners to make space for new felons.

The Commission discussed the idea of affirmation statements in contracts and that all state forms should contain an affirmation similar to many federal forms. State forms, other than tax forms, are lacking. The signer should certify that whatever is being submitted is true and correct, that they did not provide anyone with any money, and nothing fraudulent was done.

V. Other matters

Chair Foley reminded the public that the Commission is open to public input at any time.

The Commission will meet on July 27, 2022, on the topic of Open Government Laws, as summarized in greater detail in the Commission's [April 14, 2022, Meeting Minutes](#).

The meeting adjourned at 4:00 p.m.

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Commission to Improve Standards of Conduct

Members:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Nikos Leverenz, Common Cause Hawaii Advisory Board Member;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

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Note: Ms. Sandy Ma, Executive Director of Common Cause Hawaii, resigned from the Commission effective June 17, 2022. To fill that vacancy, the Speaker of the House of Representatives appointed Mr. Nikos Leverenz via [memorandum](#) to serve as a Commissioner beginning June 17, 2022.

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Limited decision-making occurred at the meeting. Any proposals or final recommendations to be adopted by the Commission and subsequently submitted to the House of Representatives in its Final Report will be the subject of future public meetings and take into consideration input from the public.

Appendix B – Meeting Minutes July 27, 2022

I. Call to order/Roll call

Chair Foley convened the meeting at 2:03 p.m. All members were present for the meeting except Commissioner Marumoto, who was excused.

II. Approval of minutes

The minutes from the July 13, 2022, meeting of the Commission were approved and adopted.

III. Public testimony

The Commission received written public testimony from three individuals.

The Commission heard oral public testimony from two individuals. In addition to any written public testimony by these individuals, oral testimony pertained to:

- The public's low rating of the Legislature's handling of internal corruption, which appeared in the July 27, 2022, issue of the *Honolulu Star-Advertiser*;
- Legislative members' negotiations over the fate of bills and the need for controls over members; and
- The massive data dump of information, without context or relevance, that is sometimes provided in response to a request for information under the Uniform Information Practices Act.

IV. Discussion of Hawaii's open meetings and open records laws and the importance of transparency and accountability in building the public's trust in government

Commissioners Mason and Leverenz facilitated presentations by the following individuals:

- a. Cheryl Kakazu Park, Director of the Office of Information Practices, who provided an overview of the Office of Information Practices (OIP), including that OIP:
 - Administers Hawaii's Open Meetings Law ("Sunshine Law"): Part I of Chapter 92, Hawaii Revised Statutes, (HRS); and Hawaii's Open Records Law: Uniform Information Practices Act (UIPA), Chapter 92F, HRS;
 - Is neutral: OIP does not represent anyone and provides advice to everyone;
 - Has no enforcement powers; and
 - Provides opinions, training and informational materials, reports, log summaries, and other resources, which can be found on its website at: oip.hawaii.gov.

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The presentation also included the following:

- An overview of the UIPA and the Sunshine Law;
- Per [S.C.R. No. 192, S.D. 1 \(2022\)](#), OIP is charged to convene a working group to develop recommendations for the treatment of deliberative and pre-decisional agency records;
- Other than its intended budget request to increase positions and funding to address workload and backlog issues, OIP does not have legislative proposals it is currently considering and has no proposals that would affect the Commission to Improve Standards of Conduct (Commission);
- OIP requested that the Commission obtain OIP input before recommending any legislative changes to the UIPA or Sunshine Law to avoid confusion, contradiction, or unintended consequences; and
- As of January 1, 2022, boards under the Sunshine Law became allowed to hold remote meetings, in addition to in-person meetings and multi-site meetings, which were already allowed.

Discussion focused on the following topics:

- Requests by county councils for exemption from the Sunshine Law.
Ms. Park stated that the county councils feel they are a legislative branch of government like the Legislature, which is exempt from the Sunshine Law. It was noted that the matters before the county councils and Legislature are different, and that the Legislature meets about four months a year, whereas county councils meet year-round and thus are better apt to meet the six-day notice requirement. OIP has consistently opposed proposals to exempt the county councils from the Sunshine Law;
- Recourse for requestors when materials provided by an agency to a requestor are not relevant to the inquiry and are not provided in a timely manner.
Ms. Park indicated that the UIPA requires agencies to provide records that the agency already has and maintains: The law does not require agencies to create a summary or report or answer questions. It was noted that sometimes requests for records are so broad that the information provided may be massive, and therefore it is prudent to narrow requests to what is being sought to get relevant and timely information and avoid unnecessary fees. OIP keeps a UIPA record request log of information that is submitted to OIP by state and county agencies annually. The record request log reports are on the OIP website;
- OIP guidance on subjecting the Legislature to the Sunshine Law.
Discussion centered on parameters and guidance from OIP on this matter and concerns related to the Sunshine Law and UIPA. Ms. Park indicated that OIP has never taken an official position on this matter, as the Legislature has its own set of rules, and it may be difficult for the Legislature to follow the requirements imposed on entities subject to the Sunshine Law. OIP looks at different,

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potentially competing interests to see what will work. Ms. Park reserved any comments until seeing specific proposals on this matter; and

- The costs to obtain information for UIPA requests and whether OIP has an appeals process for costs and other thoughts on resolving the cost issue. Ms. Park indicated that OIP has issued an opinion on this matter. OIP mediates complaints by asking agencies to justify the basis of the costs. It was noted that broad requests for records are subject to time and cost factors, so it may be prudent to narrow requests to the type of information that is being sought to eliminate or reduce costs and the receipt of unnecessary information. Ms. Park suggested that addressing some of these issues may be better achieved through administrative rule changes rather than statutory changes.

- b. R. Brian Black, President and Executive Director of The Civil Beat Law Center for the Public Interest, who gave a presentation on government transparency from an advocate's perspective. The presentation and discussion centered on the following proposals:

- The status quo does not work: Restoring public trust in government requires real change, not just tinkering around the edges.

Mr. Black elaborated that when it comes to public records, open meetings, and concerns about corruption, there is much that can be done to help the public understand what government does and what is happening with government. Helping the public gain better confidence and understanding about what is happening in government and how things work in government will help address problems of trust.

- Corruption happens when it is easy: Lack of access to information and consolidated power.

Mr. Black remarked on the comment made by a former State Senator that it is easy to kill a bill. Mr. Black elaborated that when things are made easy, such as when there is lack of access to information, corruption can happen. This proposal focuses on better educating and informing the public about government and consolidated power.

- Change the corruption-friendly environment: [S.B. No. 3252, S.D. 2, H.D. 2, C.D. 1 \(2022\)](#), Relating to Public Records.

The presentation centered on the continuing need for what S.B. No. 3252 sought to accomplish. S.B. No. 3252 was passed by the Legislature during the Regular Session of 2022 but was subsequently vetoed. Mr. Black recommended that this measure be reintroduced in the upcoming session. He discussed how enactment of this measure can help ferret out corruption and expose incompetence and

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inefficiencies. He pointed to an example of a recent affordable housing conspiracy case on the Big Island. The case involved investigative reporting, the use of public records, and informing the public about what was happening, which turned into an investigation and indictments.

There was discussion from presenters on S.B. No. 3252 and on the interpretation of UIPA Record Request Log data, the way the form request to access a government record is filled out, and information that is not being captured by the log data.

Commissioner Harris inquired about a working definition of what is in the public interest and whether this needs to be incorporated into legislation, and about narrowing the scope of requests for massive information. Mr. Black responded that S.B. No. 3252 is modeled after the Freedom of Information Act standard. With regard to requests for larger information requests, the Commission heard that agencies are permitted greater time in responding to larger requests. If requestors are told a response to a request will take a long time, they can begin a dialogue to narrow their requests, whereas money is an outright stopping point and can bar these requestors from pursuing those records further.

- Public deliberations at legislative committees: Let the public see what is happening.

Mr. Black stated he has never argued that the Sunshine Law should apply to the Legislature; however, there are things that can be done to make things the Legislature does more public. The Commission noted the issue of legislative hearings taking place in public but committees recessing to discuss decisions on measures prior to decision making in public. He stated that more discussions should take place in public.

- More egalitarian distribution of power among legislators: Empower committee members with respect to agendas and votes.

The Commission noted that members often are unable to bring things to the agenda or bring measures to a vote because committee chairs hold those powers. Addressing this issue would better enable the public to know where individual legislators stand on issues and how measures are progressing through the legislative process.

- Constitutional amendments: Right of access.

Mr. Black commented that no matter what is in the public records law, the Legislature will claim that it has constitutional privilege to withhold, and unless there is a constitutional right of access, the Legislature will have carte blanche to withhold information.

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- c. Randall Roth, Professor Emeritus of the University of Hawaii William S. Richardson School of Law, spoke on transparency and accountability in helping build and maintain public trust in government.

Mr. Roth's presentation focused on the end goal of public trust in government and the role and absence of watchdogs in the system. He referred to the poll results in today's *Honolulu Star-Advertiser* that public trust in government in Hawaii is abysmally low. The presentation included the following points:

- Existing laws in theory can always be improved;
- In public corruption scandals, generally—Mr. Roth highlighted two scandals and the watchdogs in these scandals that are detailed in "Broken Trust" and "The Mailbox Conspiracy"—there has been an absence of accountability and transparency and a tremendous amount of public corruption. Mr. Roth stated that the watchdogs, in theory, were there with responsibility and power to do something but were asleep;
- People in positions of power may have gotten along to get along. Mr. Roth commented on having higher expectations of people who are part of the political elite that have some degree of power;
- If the end goal is about public trust, how about establishing a commission comprised of a group that the public perceives as not part of the "in crowd", but part of the "out crowd". Mr. Roth stated it helps to have people who, relatively speaking, can't be hurt and are not as susceptible to favor or punishment;
- The cost of not thriving in Hawaii is huge. In Hawaii, if you want to thrive, it's tough to go out there and say what you really want to say without ticking off the wrong people;
- The phrase "go along to get along" seems to permeate in Hawaii. Discussion included how to go about change so that people are more forthright in calling out wrongdoing;
- Taking action to begin the process to regain the public trust in a meaningful way will change the culture of people who serve on watchdog organizations and who become part of the code of silence;
- If we regain trust, there will be some who will speak up and be encouraged, empowered, and reinforced to do the right thing; and
- The community needs to recognize the courage and work of those watchdogs in the community and say, "That was magnificent!"

The presentation detailed aspects of the following scandals and the watchdogs in the scandals:

- The Broken Trust scandal about the Bishop Estate controversy of the 1980s and 1990s.

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Mr. Roth indicated that the scandal involved years of obvious trust abuse and a strong appearance of corruption in terms of using the power obtained by virtue of a government position and using that power for selfish or special interests. The presentation emphasized the absence of accountability and lack of watchdogs. Years after the scandal, the American Judicature Society formed the Committee on Judicial Independence and Accountability.

- The Mailbox Conspiracy case regarding the corruption of power and abuse of public office by the former Honolulu Police Chief and former Honolulu Deputy Prosecutor.

The presentation included the work of the Federal Public Defender and the absence of watchdogs.

In response to whether a legislative package of recommendations by the Commission would be a step in restoring public trust, Mr. Roth responded that he would assume that the package would include really good recommendations and that he would probably support most of the package. However, the problem is that if there's too much in the package, it becomes easy to say that everything can't be done at once and that the political in-crowd will do everything they can to prevent what Mr. Roth described. Mr. Roth emphasized the need for a "truth commission" to find out why the rules of accountability and transparency did not work in the past and why did the watchdogs did not do their jobs.

- d. Nikos Leverenz, Advisory Board Member of Common Cause Hawaii and Grants and Advancement Manager of the Hawaii Health & Harm Reduction Center, prepared a [summary](#) of reported problems of public departments in complying with the Sunshine Law and the Open Records Law but did not present it at the meeting. The summary is posted on the Commission's webpage.

V. Other matters

Commissioner Harris announced upcoming meetings of the Commission and the topics to for discussion at those meetings. Commission meetings are scheduled for:

- Wednesday, August 17, 2022, at 2:00 p.m., which will focus on the legislative process to include addressing issues with conference committees and the power of committee chairs. The intent may be to invite a small but diverse group of legislators to speak on the legislative process; and
- Wednesday, August 24, 2022, at 2:00 p.m. to catch up on proposals on different topics and discuss upcoming meetings, legislation, and next steps.

The meeting adjourned at 4:08 p.m.

Appendix B – Meeting Minutes August 17, 2022

Commission to Improve Standards of Conduct

Members:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Nikos Leverenz, Common Cause Hawaii Advisory Board Member;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii.

Note: Ms. Sandy Ma, Executive Director of Common Cause Hawaii, resigned from the Commission effective June 17, 2022, and Mr. Nikos Leverenz was appointed by Speaker of the House of Representatives Scott Saiki to fill that vacancy via [memorandum](#) on the same day.

Resources:

The Commission's website, which includes related materials and information such as House Resolution No. 9 (Regular Session of 2022), the Commission's Interim Report, and meeting notices and minutes, can be found here: [Committees \(hawaii.gov\)](#)

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Limited decision-making occurred at the meeting. Any proposals or final recommendations to be adopted by the Commission and subsequently submitted to the House of Representatives in its Final Report will be the subject of future public meetings and take into consideration input from the input.

Appendix B – Meeting Minutes August 17, 2022

I. Call to order/Roll call

Chair Foley convened the meeting at 2:03 p.m. All Commissioners were present for the meeting.

II. Approval of minutes

The minutes from the July 27, 2022, meeting of the Commission were approved and adopted.

III. Public testimony

The Commission received written public testimony from numerous individuals.

The Commission heard oral public testimony from four individuals pertaining to:

- Concerns over the unilateral decision-making power of an individual chairperson to defer legislation indefinitely without a vote by the committee and the unilateral authority of the chairperson to determine which measures are to be scheduled for a public hearing;
- The practice of conference committees not accepting any written or oral testimony;
- The ambiguity surrounding the committee referral process of bills; and
- The amount of bills introduced each year and the duplication of ideas.

IV. Guest Speakers:

Vice Chair Harris facilitated a discussion on the legislative process from the following guest speakers:

A. Representative Della Au Belatti, Majority Leader House of Representatives

Representative Au Belatti addressed concerns expressed in public testimony regarding the unilateral discretionary power of a chairperson. Representative Au Belatti requested the Commission to examine the current rules of the House and Senate and take into consideration the legislators in each chamber that collaborate with one another to ensure that critical bills are heard, thoroughly vetted, and amended as necessary to address concerns raised in testimony. Specifically, she noted that there are rules in the House to address concerns of legislators, request for certain bills to be heard, or limit the unilateral power of a chairperson. She said the power of a chairperson is already curtailed by Committee members who can vote bills down. She noted that the complexity of a bill may require a three committee House referral. She was also able to provide context on the

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committee hearing process that requires chairs to sift through many ideas and concerns, consolidate certain ideas, and recognize themes or priorities. Representative Au Belatti also explained why certain bills may not get a hearing or are deferred and noted that committee chairs are usually open to addressing a stakeholders' request for an explanation on why a bill was not heard or deferred in committee. Specifically, Representative Au Belatti cited House Rules 11.3 and 11.5 in setting forth the current decision-making process for committees, including bill deferral and petitioning a Chair to have a public hearing on a bill, however she added that she had not seen this rule used. Vice Chair Harris asked whether Committee Members might be reticent to overturn a Chair's wishes, and whether having a lower standard than a majority (e.g. 20-30% of the Committee) would be preferable. Representative Au Belatti said she would not be opposed to the idea of empowering members of a Committee to determine measures heard by the Committee, but she questioned how effective a lower threshold would actually have on the process. She added that usually if 50% or more of the members of a committee wanted a bill heard it would most likely be scheduled. Representative Au Belatti pointed out that Chairs are persuasive with their Committees. Commission members who asked Representative Au Belatti about making the deferral process more transparent included Chair Foley, Vice Chair Harris, and Commissioners Janet Mason, Barbara Marumoto, and Nikos Leverenz.

Representative Au Belatti mentioned that she agreed with Commissioner Marumoto that limiting the number of bills each legislator can introduce is not necessary because the House Committee structure screens down the number of bills. Commissioners Mason and Leverenz suggested a form with a checklist of options that the committee chairperson or clerk could sign when the decision is made to defer a bill. Representative Au Belatti's primary concern over a change to provide a formal explanation of a committee chairperson on why a measure was not scheduled for a hearing or deferred indefinitely would be the potential human resources that would be necessary to document such actions for public disclosure as well as the challenge of following legislative deadlines. She expressed concern over when release of such a document would occur. There are generally large issues that demand attention. Commissioner Marumoto stated that it is important to have proper Committee discussion about why a bill does not go forward, and Commissioner Leverenz pointed out that such a checklist need not be onerous because Chairs have these conversations all the time; a checklist would just memorialize the action. Representative Au Belatti said she was not opposed to this idea and could look into the idea of a checklist, but in her experience, Chairs were already happy to talk with advocates about this question.

B. [Senator Chris Lee, Chair of the Senate Committee on Transportation.](#)

Senator Lee provided context on the workload and timeline of a legislator and a chairperson during a legislative session regarding the introduction of bills, scheduling of a hearings, and the logistical challenges in hearings with trying to afford everyone an appropriate amount of time to deliberate and discuss a bill. He said many time constraints lead to a deficit to transparency for the public at Committee hearings and in Conference committees. Typically, he personally has about 200 topics of interest for introduction

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during the session, but he must whittle them down while continuing to represent his community. He noted the constraints that the state constitution has on the Legislature and the legislative calendar. He stated that although progress to build efficiencies in the process was achieved during the pandemic, including online testimony from the public, meaning Hawaii may now be the easiest state for the public to testify on bills. However, more testimony together with email and social media has increased the volume of messages a legislator receives, as much as 6-7 times in the past few years. He pointed out these impacts on a part-time legislator and how more resources may help as they are currently without sufficient resources like an adequate mailing allowance for constituent mailers.

There is still so much work that must be completed within the sixty-day legislative calendar. Chair Foley asked whether having a full-time Legislature would require a constitutional amendment, and Senator Lee responded "yes," but there is scheduling flexibility within the current construction of the constitution. Senator Lee said he now has thousands of social media contacts, but from his experience many of his constituents find out what is being discussed at the Capitol through his annual newsletter mailer. Commissioner Mason asked whether having a longer mid-term break would be helpful. Senator Lee responded that rest sometimes would certainly be welcomed and it could allow for more lengthy deliberations on certain topics, but he also cautioned that an extended break could result in some of the momentum of the discussion being lost or details of the issues being forgotten once the Legislature resumed discussions. He further stated that the House and Senate practices already require a minimum 48 hour or 72 hour hearing notice requirement prior to hearing a bill, so that helps to give people a chance to understand the issues. Senator Lee said that modifying that process could help, but cautioned that it would need to be done right to not negatively impact other aspects of the process. Vice Chair Harris asked whether spacing out recesses would be helpful, for the conference committees. Senator Lee said there is some flexibility in scheduling during Conference as those rules are agreed to each year between the House and Senate, but he also expressed concerns over the possible extension of the legislative session on other processes such as the timing afforded to the Governor to review bills and for the administration to prepare for the fiscal year.

Vice Chair Harris asked Senator Lee to share his thoughts on term limits. Senator Lee expressed that his view on term limits has changed as he has obtained more experience as a legislator due to the steep learning curve. He noted that he didn't realize how much time and effort is needed to understand and navigate the legislative process. He also expressed concerns over the loss of institutional knowledge of legislators if we were to have term limits and that could enable institutional lobbyists or legislative staff to steer policy on certain issues.

Senator Lee considered whether enhancing public financing of elections could be equally beneficial to a proposal for term limits on legislators. He thinks there are two barriers to enhanced public funding: first, candidates must have realistic money to pay for election expenses; and second, partisan voters may object to giving money to their opponents who have become candidates. He mentioned the prospect of a pilot project to assess public

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financing. Also, regarding term limits he thinks that in the past ten years about two-thirds of the House members have left, and that this is similar in the Senate.

Commissioner Leverenz expressed disappointment that although each legislator has a webpage on the Capitol website, most pages are not kept up to date. However, he mentioned that several Senators have the capability to send out detailed e-newsletters. Senator Lee said that communicating with the public is easier if there are staff skilled with social media, or having a communications person helps, but the legislator must still select the content, which takes time. He estimates that he has 14,000 people on his email list, but this is only about 25% of the people in his Senate district. In his experience, people do not respond as well to emails as they do to a conventional mailer or an in-person meeting.

Commissioner Izumi-Nitao asked if he could suggest areas of reform that are plausible, instead of relying solely on answering questions from Commissioners. Senator Lee said he would digest this discussion and give a written response. Vice Chair Harris said this type of response would be needed in about November.

C. [Representative Mark. M. Nakashima, Chair of the House Committee on Judiciary & Hawaiian Affairs.](#)

Representative Nakashima provided context on his experience as a chair of various committees over the years. Regarding term limits for a chair, he noted that the learning curve for a chairperson is steep as it takes several sessions to get a good handle of any committee's subject matter, jurisdiction, and critical issues. Representative Nakashima explained that early on he made a deliberate decision to gain experience serving as Chair of several House Committees. He was supportive of the idea to allow a lower threshold of Committee members to overrule the Chair's decision to hear or not hear a bill. In his opinion, members serving on big committees may have more prestige, serving on several smaller committees may be better for members over the long run.

Representative Nakashima shared with the Commission the process he undertakes in arriving at committee decisions or recommendations and for the scheduling of bills for a hearing. Specifically, he seeks out a consensus from the members of the Judiciary & Hawaiian Affairs Committee and also the public. Chair Foley asked whether publishing the practice of consultations with members on decision making would be beneficial to the public. Representative Nakashima said that after the hearing of testimony, but before decision making votes, he walks around the room to each Committee member and asks for questions, comments, or concerns. The responses of members may influence his decision making on a particular bill. Representative Nakashima expressed concerns on the potential of making these discussions public as some may not be willing to share their true concerns publicly, however as a chairperson Representative Nakashima does allow members of his committee to share their comments or concerns on bills during decision making should they choose to. Representative Nakashima pointed out that members can explain their vote when voting, but that he wouldn't want to share what members had told him before voting unless the member agreed.

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Vice Chair Harris and Commissioners Mason and Leverenz asked for clarification on bills that are introduced "by request." Commissioner Leverenz noted that when the administration gets a bill introduced that it's clearly marked as coming from the Governor and asked whether there would be some utility in identifying the source of a bill so that the public could get a sense of who the legislation may impact. Commissioner Izumi-Nitao noted that bills from the Campaign Spending Commission and Ethics Commission are introduced by request and are marked as coming from those entities, and indicated that it could be extended to others asking for introduction of a bill by request. Representative Nakashima shared information on the practice of introducing bills "by request" and expressed caution on the idea of indicating who may have requested the legislator to introduce a bill on the actual bill itself as legislators often introduce bills that they may not totally support, and the "by request" is a signal that the submittal is a favor.

Representative Nakashima mentioned that he does not utilize the practice of introducing bills by request. Vice Chair Harris asked Representative Nakashima what he thought about the possibility of asking who requested certain bills to be introduced. Representative Nakashima stated that usually people can tell who requested the bill by looking at the supportive testimony. Commissioner Leverenz mentioned whether there is any utility in identifying a group or lobbyist as the requestor of a bill upon introduction. Discussion took place about the prospect of identifying anonymous "by request" bills from lobbyist disclosures. Commissioner Izumi-Nitao stated that the Campaign Spending Commission and the Ethics Commission were identified as the source of bills in their respective packages, so why not other requestors. Representative Nakashima stated that if it were required he didn't think this would be a problem and that he does honor requests from colleagues and the public to introduce a bill whenever feasible.

D. [Senator Karl Rhoads, Chair of the Senate Committee on Judiciary.](#)

Senator Rhoads noted that the Legislature is not subject to the Sunshine law but is subject to the Uniform Information Practices Act (UIPA) and regularly submits information to the public in response to UIPA requests. Senator Rhoads expressed concerns on its potential impact to the legislative process if the Legislature was to be subject to Sunshine. Senator Rhoads noted that application of the Sunshine law to the Legislature would result in the process of passing legislation to take much longer. Certain established efficiencies in the legislative process such as caucuses and serial telephone calls to other legislative members would then be nullified or need to be further modified or adjusted, particularly because of the larger size of the House. He stated that there is a tradeoff between the Sunshine law and an efficient process.

Senator Rhoads mentioned that when Hawaii's Constitution was written in 1969, we were a small state, with only about 700 thousand people, and now there were more than 1.4 million people, so the notion of a part-time, "citizen legislator" may be more difficult. He thinks if the session were extended, it would have more impact on elections as most incumbents would find it difficult to campaign during the legislative session, particularly

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those who represent the neighbor islands. Senator Rhoads pointed out that incumbents weren't always incumbents but rather they were individuals who "scratched their way" into the House after spending hours doing spadework in their communities. The result is that incumbents are hard to beat. The session could also be stretched out by having more recesses, but people should ask whether we want to go away from the "citizen legislator" model.

Senator Rhoads said that in his opinion if you are a full-time legislator, it was necessary to raise money during session. He also provided context into the policy considerations of Act 283, Session Laws of Hawaii 2022 (Act 283), which prohibits elected officials from holding fundraising events during a legislative session. Senator Rhoads provided the Committee Chair a list of how other states restrict fundraising during session. He objected to a total ban on fundraisers by all candidates during session because this would be like an "incumbent insurance policy," but this type of bill may be easy to pass.

Commissioner Mason asked about the prospect of including a "fiscal tag" on bills, something which would inform lawmakers about whether they bill had fiscal impacts, estimate the cost of the bill, which departments were affected, etc. Senator Rhoads confirmed that at this time the Legislature did not have the resources to do this, and often relied on the Department of Taxation for such estimates as the Department was usually willing to provide such an opinion on fiscal bills up for Third Reading. Senator Rhoads echoed the idea that having accurate fiscal impact statements would be helpful.

Commissioner Leverenz asked about completion of a written explanation about why a bill was deferred and how the Conference Committee process could be improved. Senator Rhoads said explanations would have to be done after the deadline for hearing a bill. He offered that taking votes in real time and identifying how each person voted similar to the process used by Congress could be an improvement. By comparison, it does take some familiarity of the capitol webpage to find out how legislators voted on a measure. Regarding whether Sunshine laws could be introduced in conference committees, Senator Rhoads said someone could observe and comment on the chatting between Conference Chairs. Vice Chair Harris asked about possible solutions to situations where the conference bill significantly changes the wording of a measure at the last minute and if it would be possible to post the final Conference Committee work product and then schedule a recess. Senator Rhoads responded that due to meeting and filing deadlines, at some point it becomes impractical to allow any substantive input on a draft measure prior to the filing deadline passing due to human nature and the timing that agreements are reached.

In response to a question from Commissioner Leverenz about the potential use of a form with a checklist when a bill is deferred in order to give the public some information about the decision, Senator Rhoads noted that more information would be good and also that it might be helpful for members to take recorded votes. Senator Rhoads noted the human resources and actual time that would be necessary to accomplish proposals regarding the publication of why a bill was not heard by a committee or requiring bills to include information on its potential fiscal impact. He shared that there are current rules regarding conference committee procedure and limitations on how conference measures can be

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amended. For example, the conference committee rules typically would only allow amendments to a conference draft that resolve the differences between House and Senate versions of a bill rather than inserting new content.

Senator Rhoads stated that time is the enemy during conference and usually it is not possible to have much impact on the conference draft unless you are a Conference Chair. Chair Foley asked if any portion of the Sunshine laws could be incorporated into chamber rules. Senator Rhoads responded that from his past experience in legislating on that area there was not much interest from his colleagues. In regard to Act 283 (Session Laws of Hawaii 2022), it was pointed out that the Commission had recommended both incumbents and new candidates not be allowed to raise money during session. In response to criticism that Act 283 did not do enough, Senator Rhoads said that Act 283 removed an easy way for incumbents to raise money. To achieve the "fairness" of banning solicitation and acceptance during session, incumbents would be handicapped if the ban only applied to them and not all candidates. Senator Rhoads reiterated that if an incumbent is doing a good job, why make it harder for the incumbent to be reelected? So there should be an appropriate balance struck between the restrictions and limitations of running for and being reelected into public office. As far as restricting lobbyists from donating money during session, Senator Rhoads thought this was worth doing, because lobbyists were always going to favor giving to incumbents because they are currently the individuals in power and agreed that the optics of lobbyists giving incumbents funds during session is an inherently bad look.

Commissioner Marumoto asked whether the recent Hawaii Supreme Court decision banning "gut and replace" tactics should become part of Senate and House rules. Senator Rhoads responded that in his opinion it is not necessary since the Supreme Court ruled such practices to be unconstitutional on a going forward basis. He thinks these techniques are still used, though not often. For example, S.B. 1350 (2021), a bill he introduced was altered dramatically but because it was something most people did not object to no one cared to protest the process problems.

Commissioner Marumoto also stated that it was important to post all testimony for hearings at least 24 hours in advance and questioned why this wasn't always done. Senator Rhoads responded that his Judiciary Committee does post testimony 24 hours in advance of the hearing, but he could not speak for other chairs. Commissioner Marumoto asked why bills are sometimes sent to Committees which have no jurisdiction over the matter as she herself encountered such behavior. Senator Rhoads said that in general he agrees this practice still occurs and it might be desirable to send bills to only two Committees that have the most jurisdiction over the subject matter.

Commissioner Marumoto stated that in general the Minority members of the Legislature are often not named a member or manager of a Conference Committee because they likely voted "no" on the prior reading of the bill. Such practices leads to a very friendly crowd in Conference. Commissioner Marumoto stated in general it should be possible to have 48 hours' notice for announcement of Conference drafts.

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Commissioner Mason asked about voting when the legislator has disclosed a conflict of interest on the matter - should recusal from voting be the default? Senator Rhoads reported he had once tried to have himself excused from voting for this reason, but still be present for the vote, and the presiding officer had made this difficult. Senator Rhoads said going back to the tradition of having a "citizens legislature" and not vote may be something to consider, but that also would create other potential problems as well. Such as the custom becoming overly used by legislators and becoming an excuse for not voting on contentious issues.

The Commission noted the absence of Representative Ward, House Minority Policy Leader, who was scheduled to join the meeting.

V. Other matters

Due to time constraints, the Commission deferred the following agenda items:

1. Discussion of concepts to improve the legislative process; and
2. Consideration of draft nepotism bill.

The Commission's next meeting will include deferred agenda items and is scheduled for August 24 at 2:00 p.m. to discuss the next steps of the Commission.

The meeting adjourned at 4:00 p.m.

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Commission to Improve Standards of Conduct

Members:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Nikos Leverenz, Common Cause Hawaii Advisory Board Member;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii.

Note: Ms. Sandy Ma, Executive Director of Common Cause Hawaii, resigned from the Commission effective June 17, 2022, and Mr. Nikos Leverenz was appointed by Speaker of the House of Representatives Scott Saiki to fill that vacancy via [memorandum](#) on the same day.

Resources:

The Commission's website, which includes related materials and information such as House Resolution No. 9 (Regular Session of 2022), the Commission's Interim Report, and meeting notices and minutes, can be found here: [Committees \(hawaii.gov\)](#)

Recordings of the Commission's public meetings may be viewed on the House of Representatives' YouTube channel found here: [Hawaii House of Representatives - YouTube](#)

The Commission may be contacted via email at standardsofconduct@capitol.hawaii.gov

Limited decision-making occurred at the meeting. Any proposals or final recommendations to be adopted by the Commission and subsequently submitted to the House of Representatives in its Final Report will be the subject of future public meetings and take into consideration input from the input.

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I. Call to order/Roll call

Chair Foley convened the meeting at 2:02 p.m. All Commissioners were present for the meeting except Commissioners Marumoto and Mason, who were excused.

II. Approval of minutes

The adoption of the minutes from the August 17, 2022, meeting of the Commission was deferred to the next meeting.

III. Public testimony

The Commission received written public testimony from two individuals. In addition to any written public testimony by these individuals, oral testimony pertaining to:

- The establishment of significantly large fines against those who abuse public trust that must be paid with their personal funds, rather than campaign funds or donations and how corruption is created by the system that leaves corrupt individuals unchallenged; and
- The concept of creating a pono policy group, where certain members from the Executive Branch, Legislature, and Judiciary look at legislation being proposed in the Legislature, which could cut down the number of bills that get introduced.

IV. Discussion of Concepts to Improve Legislative Process

Vice Chair Harris continued the discussion on legislative process from the August 17th, 2022 meeting, where he invited various legislators as guest speakers, including Representative Gene Ward who was unable to attend the August 17th meeting.

A. Representative Gene Ward, Minority Policy Leader

Representative Ward spoke of the difficulty of getting access to public testimony on legislation because it is usually not provided to the members until 10 minutes before the hearing, which does not give the members or the public enough time to read through all the testimony. Representative Ward further discussed his article on Civil Beat regarding the structure of the capitol and how power is reserved to key players in the Legislature. He then discussed getting rid of the practice of "voting with reservations". Representative Ward also mentioned that some testifiers are asked to limit their testimony to two minutes, which prevents the public from fully testifying in front of the committee. In general, Representative Ward opined that discussion regarding legislation is limited to certain individuals, which leads to decisions being made behind doors and temptation to

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corruption. He called for more transparency in terms of decision-making procedures and allowing the members and public more time to ask questions and testify in front of a committee.

Chair Foley asked Representative Ward for his position on term limits, which Representative Ward replied that even with his 12-term experience, he introduced legislation calling for term limits to prevent the status quo. Representative Ward also mentioned that bills introduced by request should note who is requesting the legislation. He further mentioned that a full-time legislature is not a good suggestion as the Legislature already introduces roughly 3,000, even as a part-time Legislature.

Vice Chair Harris asked Representative Ward about the suggestion of having full-time legislator to prevent legislators from having other jobs that may influence them. Representative Ward responded that many may ask for a higher pay and instead suggested doing a pilot program of extending session.

Commissioner Mason asked Representative Ward how compliance would work in terms of changes in legislative rules since legislative rules do not have the force of law. Representative Ward responded if the Commission recommended changes to be made to legislative rules and there was no compliance, the backlash from the public could act as a means of enforcement.

Commissioner Leverenz asked Representative Ward three questions pertaining to:

- Having a checklist or specifying why a piece of legislation is deferred;
- Requiring at least one hearing in the opposite chamber of any legislation that passes out of one chamber; and
- Identifying who the sponsor of a bill that is introduced by request.

Representative Ward responded that having a check list may not be transparent enough and instead members of a committee should be allowed to vote to defer the measure or not. He then answered that the bicameral system works as a checks and balance for each chamber and most times, companion legislation is introduced in both chambers. Finally, Representative Ward thinks outside sponsors of a bill that is being introduced by request should be noted.

Commissioner Mason asked Representative Ward for clarification regarding a suggestion that a committee would first vote on a piece of legislation and then the chair would make a recommendation. Representative Ward clarified that the chair would make a recommendation and then the committee would vote, whether it is to defer or pass out a piece of legislation, as the current practice is to only vote on a piece of legislation to pass it out but the authority to defer legislation is reserved to the chair. Representative Ward further clarified that he does not believe that all bills should be heard as there should be a way to sort through the number of bills that get introduced to be more efficient.

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B. PowerPoint Presentation by Vice Chair Harris

In continuation of items that were deferred from the August 17 meeting, Vice Chair Harris facilitated a PowerPoint presentation to discuss concepts that the Commission received from public input that the Commission can use to make its recommendations on the following topics:

- Fair Consideration of Bills:
 - Death by Referral: Referral process of bills may be more subjective than fair. One proposal is to look at the legislative rules and lay out the referral process and create some level of objectivity. Establishing a group, rather than an individual, who makes the referrals may address this subjectivity. Vice Chair Harris noted that the referral process is very fast and there exists an active process for re-referrals so it would be prudent for the Commission to learn more about the re-referral process. To this, Chair Foley mentioned the difficulty of triple referrals due to the time constraints of the Legislature. Commissioner Mason discussed how non-fiscal measures are often referred to the Finance Committee, even though there is no fiscal implications and views this as more of a gatekeeping method.
 - Power of the Chair: Options to ensure fair consideration:
 - Hearings for all bills introduced.
 - Pros: Reduce authority of chairs, greater transparency, and allowing all bill ideas to be heard;
 - Cons: Time consuming, provides more power to lobbyists, and sloppy decision-making.
 - Eliminating the chair's authority to defer bills.
 - Pros: Reduce potential of corruption and greater transparency;
 - Cons: Politically challenging, may reduce the number of bills heard, and greater number of potentially "bad" bills passing.
 - Term limits for chair positions
 - Pros: Prevent one single person from dominating that subject matter and more ideas may be heard;
 - Cons: Lose of subject matter expertise and potential of increasing power of lobbyists.

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- Rule Proposals:
 - Lower the voting threshold to recall a bill that has been deferred by a chair; or
 - Reduce the number of committee members necessary to require hearing a bill.
- Discussion:
 - Chair Foley: Internal deadlines of the Legislature proves difficult to hear all bills introduced. Chair should have the power to schedule hearings on bills, but members of the committee should be able to overrule the chair to either hear a bill or vote on a bill. That number will need to be determined.
 - Vice Chair Harris: The intent is to make it easier for the members to overrule a chair and make it easier for a recall for the members and to create a more transparent process, such as chairs specifying the reasons for deferral.
- Transparency and Public Access:
 - Remote Video/Access:
 - Support continuing remote/video access to public hearing. Vice Chair Harris recognized the significant improvements made to public access to offer public testimony and watching hearing remotely;
 - Loosen strict written testimony requirements for remote participation: Vice Chair Harris noted that sometimes if people did not submit written testimony, they would not be allowed to testify orally, and this rule should be changed to allow anyone to testify orally.
 - Access to Bill Drafts:
 - Require public access to all bill drafts submitted to the Legislature.
 - Main concern is conference committee when a stakeholder submits a draft to the chairs and the public has no way of seeing the draft, even though this is what the chairs may agree upon, and no one will have time to point out potentially errors or faults of the draft.
 - Note author of any bill draft.
 - Require all by request bills to note who is requesting the bill.\

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- Discussion:
 - Chair Foley: Current process of showing the changes made to a measure, which is shown in the committee reports, is a sufficient as it explains the decision of the committees and still has to go through the legislative process. Chair Foley is for either eliminating the option to introduce a measure by request or requiring the name of the requestor.
 - Commissioner Mason: Attention needs to be paid to drafts of the conference committee because it is under a tight time schedule and public does not always see all the drafts. Conference process is very different from the normal lead up to conference where the public has at least 48 hours to review the draft.
 - Vice Chair Harris: Intent of these proposals is to target any draft that is submitted to the Legislature for consideration. For example, if a lobbyist hands a draft to a legislator, that should be submitted for public review.
 - Chair Foley: Questioned how this proposal would work with the State budget because it has many drafts submitted to the legislature.
 - Commissioner Mason: Potential carveout for appropriation bills. If members of the public and lobbyists are submitting proposals, it should be made available to the public.
 - Chair Foley: Requested that Vice Chair Harris come up with language regarding this proposal.
 - Commissioner Leverenz: It may be prudent to have advocates submit their budget line items to the Ethics Commission as a disclosure requirement.
- Access to Public Testimony:
 - Make public testimony available 24 hours before the hearing. Some challenges are the 48 hours' notice, which may require all the testimony to be submitted within 24 hours. Legislative staff also have to go through all the testimony to ensure the validity of the testimony. Extension of session may address this problem. Or automatic posting of testimony as soon as it is submitted.
- Discussion:
 - Commissioner Leverenz: Late testimony should be made available online. Institutions owe it to the public to ensure that their testimony appears online. Personal experience shows that sometimes late testimony is not always posted online.

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- Chair Foley: Personal experience shows that late testimony is posted before the hearing, although it may not be uniform for all the committees, but there is testimony online that have the late stamp.
- Commissioner Mason: Public testimony is very valuable has it often includes data and the public rely on external testifiers to provide the data.
- Session Timing:
 - Legislative Calendar: Propose longer breaks between key decision making moments, such as requiring conference committee drafts to be posted and require a 2-day period before voting on the proposed changes. Increase the amount of recesses to keep with the 60-day constitutional requirement. Limited legal room without looking at a constitutional amendment to change the start date of session, but more time during session would improve transparency and participation.
 - Discussion:
 - Chair Foley: With the newly passed law that prohibits fundraising during a legislative session, extending session is essentially barring candidates from fundraising. A longer session could potentially mean higher number of bills introduced and then more hearings.
 - Vice Chair Harris: Each subject committee has about two weeks to go through bills, but if we make it a three week period instead there would be more time to notice bills. Intent is to give the public more time to look at potential changes before it gets voted on.

V. Draft Nepotism Bill

Vice Chair Harris discussed that the intent of the draft nepotism bill is to create a bright line about the hiring and supervising of family members. There exists some restriction under Fair Treatment laws, but the draft nepotism bill gives clear direction and reduces ambiguity of hiring and supervising a family member. The intent is to not stop existing relationships that may be in place. Vice Chair Harris looked at two different states as models for this draft.

Commissioner Mason suggested to add a definition of "member of the household". She further suggested to add a restriction on performance appraisals or performance evaluation to the list of restricted actions.

VI. Discussion of Future Meetings and Next Steps

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Chair Foley mentioned that the Commission met its goals and covered all the areas that were set out in the interim report. The next step is for each of those areas to come up with bill drafts for consideration. The Commission will need to work together to provide either those bill drafts for recommendation or make recommendations on legislative rule changes. Commissioner Nakakuni was excused from the meeting because she was working on the bill package for the Commission's recommendations.

Vice Chair Harris asked if more discussions were necessary regarding any of the areas that were discussed in the interim report, for example campaign finance.

Commissioner Izumi-Nitao noted that the Campaign Spending Commission has potentially 15 bills to provide as recommendations, of which drafting has begun already. Commissioner Izumi-Nitao mentioned that she would like to share those bills with the Campaign Spending Commission. She deferred to the Commission if they would like to come back and discuss campaign spending a bit more.

Commissioner Mason mentioned that she had not seen a list of campaign finance bills throughout the nation that Senator Rhoads mentioned at the August 17 meeting, which Commissioner Izumi-Nitao also did not see the list, either.

Commissioner Leverenz suggested to hold a public forum on super PACs and discuss how they can be regulated more or increase disclosure requirements.

Chair Foley stated that time is limited as the Commission has to submit the final report in three months. Considering specific bills or rule changes will not prohibit further discussion on the matter or changes, but recommendations need to start moving forward. Chair Foley asked about potential timelines for when the Commission can see and discuss draft legislation or rule changes.

Commissioner Mason noted that aside from term limits, she does not expect a lot of bills to be drafted for voting and elections area. As such, she suggested September as a potential timeline.

Commissioner Izumi-Nitao asked whether the intent trying to consolidate the bill reviews similar to how the presentations by specialty, which Chair Foley said yes, that would be the easiest way to approach it.

Chair Foley asked the members for a timeline of when bills would be potentially available for the Commission to look at. Vice Chair Harris mentioned a four to six week timeline and Commissioner Izumi-Nitao stated October as a potential date because they are currently working on some large bills, such as a partial public funding bill. She is expecting to present bills to the Campaign Spending Commission in September, which would make her available to discuss the potential bills with this Commission in October.

Vice Chair Harris suggested to meet once a week in October to discuss the proposals. Chair Foley then laid out that the discussions will take place from September to October, leaving

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the Commission with November to put the final report together. Chair Foley noted that he would like to draft the final report as the Commission is going along, similar to how the interim report was drafted.

Commissioner Mason suggested that the members reach a consensus on the priority of the bills as it will help convey the Commission's ideas to the public if they express what bills they view as a priority. Chair Foley mentioned that Commissioner Mason did a good job of doing that in the interim report and they will need to do that again. Chair Foley mentioned housekeeping bills as also being important as any bill to help an agency complete its missions is important.

In discussing scheduling, Chair Foley mentioned that he will not be available for four to six weeks, which Vice Chair Harris will then lead the meetings during that time. Chair Foley noted that Commissioner Marumoto will not be available the fourth Wednesday of each month. Vice Chair Harris suggested that the Commission take a break in September if they do not have anything they want to bring up to the Commission and instead use that time drafting the proposals and then meet every week in October. Chair Foley then suggested to meet every Wednesday, at 2:00 p.m., in October. Vice Chair Harris stated he will not be available on the second week of October, but Chair Foley will be present at that hearing. Chair Foley mentioned that if Commissioner Nakakuni is done with her draft proposals, the Commission could meet in September, which would be scheduled via e-mail and schedule it on a Wednesday at 2:00 p.m.

Commissioner Mason asked if the Commission will need to take a vote on the proposed measures as it is possible the members may not agree. Chair Foley stated that that is what happened in the interim report and if any member disagrees, that can be noted in the final report. Chair Foley then discussed the importance of having differing opinions, but the Commission still needs to put forth a recommendation to the Legislature.

Commissioner Mason mentioned mandatory minimums, upon which Chair Foley discussed that as it is a controversial topic, the Commission will have to wait and see what proposals get recommended to them.

Chair Foley encouraged the members to discuss amongst themselves and everything they discuss will eventually become public information.

Vice Chair Harris suggested recognizing a theme of the report and make highlights of the report. Chair Foley requested Vice Chair Harris and Commissioner Mason to work on the highlights and theme of the report.

Chair: Janet and Robert will work together to come together and propose certain highlights or themes of the report.

VII. Other matters

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The Commission's next meeting will be scheduled for October 5 at 2:00 p.m. to discuss the proposals worked on by the members. A meeting prior to October 5 may happen, and in that case the members will be notified via e-mail and a hearing notice will be posted accordingly.

The meeting adjourned at 3:45 p.m.

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Commission to Improve Standards of Conduct

Members:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Nikos Leverenz, Common Cause Hawaii Advisory Board Member;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii.

Note: Ms. Sandy Ma, Executive Director of Common Cause Hawaii, resigned from the Commission effective June 17, 2022, and Mr. Nikos Leverenz was appointed by Speaker of the House of Representatives Scott K. Saiki to fill that vacancy via [memorandum](#) on the same day.

Resources:

The Commission's website, which includes related materials and information such as House Resolution No. 9 (Regular Session of 2022), the Commission's Interim Report, and meeting notices and minutes, can be found here: [Committees \(hawaii.gov\)](#)

Recordings of the Commission's public meetings may be viewed on the House of Representatives' YouTube channel found here: [Hawaii House of Representatives - YouTube](#)

The Commission may be contacted via email at standardsofconduct@capitol.hawaii.gov

I. Call to Order/Roll Call

Chair Foley convened the meeting at 2:00 p.m. All Commissioners were present for the meeting.

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II. Approval of Minutes

The minutes from the August 17 and August 24, 2022, meetings of the Commission were approved and adopted.

III. Public Testimony

The Commission received written public testimony from the Office of Information Practices, Kokua Council, and three individuals.

The Commission heard oral public testimony from two individuals pertaining to:

- Sunshine Law and open decision-making; and
- Term limits.

IV. Consideration of Draft Bills Related to Public Meetings

Commissioner Leverenz introduced the following draft bills for discussion and decision-making:

A. Recordings of Public Meetings

The draft bill can be found here: [CISC - Public Agency Meetings \(hawaii.gov\)](#).

Vice Chair Harris motioned for the draft bill to be deferred to work on language to delineate the requirements between certain boards and commissions. Commissioner Izumi-Nitao seconded the motion. Chair Foley put the motion to a vote. The motion was carried.

B. Relating to Sunshine Law

The draft bill can be found here: [CISC - Sunshine Laws \(hawaii.gov\)](#).

Vice Chair Harris motioned for the draft bill to be adopted. Commissioner Marumoto seconded the motion. Chair Foley put the motion to a vote. The motion was carried.

V. Consideration of Draft Bill Relating to Uniform Information Practices

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Commissioner Leverenz introduced the following draft bill for discussion and decision making:

A. Public Records Bill

The draft bill can be found here: [CISC - Open Records Law \(hawaii.gov\)](#).

The commissioners reached a consensus to defer the draft bill to work on language that addresses certain executive agency and public comments.

VI. Consideration of Draft Bill Relating to Elections

The draft bill can be found here: [CISC - Voter Education \(hawaii.gov\)](#)

Commissioner Mason introduced the draft bill for discussion and decision making.

The Commission deferred the draft bill to allow Commissioner Mason to reach out to the Office of Elections for comments on the draft bill.

VII. Draft Bill for a Proposed Constitutional Amendment for Term Limits

The draft bill can be found here: [CISC - Term Limits \(hawaii.gov\)](#)

Commissioner Mason introduced the bill for discussion and decision making.

Chair Foley proposed an amendment to the bill to increase the term limit from eight to sixteen years. Commissioner Marumoto seconded the motion. Chair Foley put the motion to a vote. Vice Chair Harris and Commissioners Izumi-Nitao, Leverenz, Marumoto, and Nakakuni supported the amendment. Commissioner Mason opposed the amendment. The motion was carried.

The Commission then voted on whether to adopt the amended bill. Chair Foley and Commissioners Izumi-Nitao, Marumoto, and Nakakuni voted to adopt the bill. Vice Chair Harris and Commissioners Leverenz and Mason opposed adoption. The amended bill was adopted.

VIII. Discussion of Future Meetings and Next Steps

The Commission is planning on holding the following meetings:

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- October 19, 2022: Bills on campaign spending (excluding public funding which will be presented in November); and
- October 26, 2022: Bills on ethics and the legislative process.

Commissioner Nakakuni is working with the Law Enforcement Coalition on bills that already received a public hearing. Once finalized, those bills will be scheduled for a meeting, most likely for the meeting scheduled on October 26, 2022.

The Commission plans on holding meetings in early November, possibly November 2 and 9, 2022, to address deferred matters. The three bills deferred from today's agenda, unless stated otherwise, will be scheduled for the first meeting in November.

Due to other obligations, Chair Foley may have limited availability from the last week of October through the first three weeks of November. Vice Chair Harris will serve as the acting Chair during Chair Foley's absence..

IX. Other matters

Commissioner Marumoto requested that the Commission issue a strong statement or bill for greater transparency from political action committees and other entities that make campaign donations.

The Commission's next meeting is scheduled for October 19, 2022, at 2:00 p.m.

The meeting adjourned at 3:35 p.m.

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Commission to Improve Standards of Conduct

Members:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Nikos Leverenz, Common Cause Hawaii Advisory Board Member;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii.

Note: Ms. Sandy Ma, Executive Director of Common Cause Hawaii, resigned from the Commission effective June 17, 2022, and Mr. Nikos Leverenz was appointed by Speaker of the House of Representatives Scott Saiki to fill that vacancy via [memorandum](#) on the same day.

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Recordings of the Commission's public meetings may be viewed on the House of Representatives' YouTube channel found here: [Hawaii House of Representatives - YouTube](#)

The Commission may be contacted via email at standardsofconduct@capitol.hawaii.gov.

I. Call to order/Roll call

Chair Foley convened the meeting at 2:00 p.m. All Commissioners were present for the meeting.

II. Approval of minutes

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The [minutes from the October 5, 2022, meeting](#) of the Commission were adopted.

III. Public testimony

The Commission received written public testimony from the Office of Elections and two individuals. One of the individuals provided oral testimony to the Commission pertaining to the importance of providing the public with sufficient notice to substantively participate in the Commission's discussions as well as the legislative process as a whole.

IV. Consideration of Draft Bills Related to Campaign Finance Reform

Commissioner Izumi-Nitao; Tony Baldomero, Associate Director of the Campaign Spending Commission; and Gary Kam, General Counsel of the Campaign Spending Commission, facilitated the discussion of the draft bills.

Commissioner Izumi-Nitao informed the Commission that all of the following ten bills were unanimously approved by the Campaign Spending Commission at their monthly meeting on September 22, 2022, and in accordance with the Sunshine Law. Commissioner Izumi-Nitao noted that some of the draft bills offered to this Commission today were stylistically changed from the bills adopted by the Campaign Spending Commission at their monthly meeting but that the substantive content remains the same. The Campaign Spending Commission hopes that this Commission will also adopt these ten bills.

Commissioner Izumi-Nitao also commented that a public-funding draft bill is being prepared, but it still needs to be presented to the Campaign Spending Commission. Commissioner Izumi-Nitao requested permission for that bill to be presented to this Commission for its consideration at its November 9, 2022, meeting.

A. Increasing administrative fines for Super PACs (HRS §11-410)

The draft bill can be found here: [Draft Super PACs Bill](#).

Commissioner Izumi-Nitao and Gary Kam commented that the Campaign Spending Commission has regularly brought this bill before the Legislature since 2013, including the Regular Session of 2022, but it has not passed the Legislature.

Mr. Kam set forth the draft bill for discussion and decision-making.

Vice Chair Harris inquired why the bill has failed to pass the Legislature and if any specific objections of the Legislature are known. Mr. Kam responded that he does not know of a specific reason as to why the bill has not been passed.

The Commission voted to adopt the draft bill.

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B. Processing Campaign Spending Commission’s final orders of violations (HRS §11-410)

The draft bill can be found here: [Draft Campaign Spending Commission Orders Bill](#).

Commissioner Izumi-Nitao commented that this bill was also before the Legislature during the Regular Session of 2022, but it did not pass. Commissioner Izumi-Nitao and Gary Kam noted that the Campaign Spending Commission worked with the Civil Recoveries Division of the Department of the Attorney General on this bill.

Mr. Kam set forth the draft bill for discussion and decision-making.

The Commission voted to adopt the draft bill.

C. Publishing the names of candidate committees and noncandidate committees who fail to file their Organizational Reports (HRS §11-322 & §11-323)

The draft bill can be found here: [Draft Failure to File Organizational Reports Bill](#).

Commissioner Izumi-Nitao set forth the draft bill for discussion and decision-making.

The Commission voted to adopt the draft bill.

D. Requiring candidate committees and noncandidate committees to file fundraiser notices for all fundraisers regardless of amount (HRS §11-342)

The draft bill can be found here: [Draft Fundraisers Bill](#).

Commissioner Izumi-Nitao set forth the draft bill for discussion and decision-making.

Vice Chair Harris noted public comments questioning whether the bill was overly broad. There was discussion among the Commissioners about what kinds of activities would be covered under the draft bill.

The Commission voted to adopt the draft bill.

E. Banning elected officials from soliciting or accepting campaign contributions during legislative session (HRS §11-357)

The draft bill can be found here: [Draft Campaign Contribution Prohibitions Bill](#).

Commissioner Izumi-Nitao commented that this bill is a carryover of a conversation that began during the Regular Session of 2022.

Commissioner Izumi-Nitao set forth the draft bill for discussion and decision-making.

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The Commission voted to adopt the draft bill.

F. Limiting cash contributions to \$100 (HRS §11-351)

The draft bill can be found here: [Draft Campaign Spending Cash Contributions Bill](#).

Commissioner Izumi-Nitao set forth the draft bill for discussion and decision-making.

Commissioner Leverenz inquired whether contributions could be required to be made in a cashless manner. Commission Marumoto noted the reason for her opposition to this measure and all similar campaign contribution limit proposals is simply to point out that such contribution limits are effectively meaningless when Super PACs do not have any contribution limits.

The Commission voted to adopt the draft bill. Commissioner Marumoto voted in opposition.

G. Expanding the government contractor ban by including state and county grantees in the ban as well as the owners, officers, employees, and their immediate family, of the government contractor and government grantee (HRS §11-355)

The draft bill can be found here: [Draft Grantee Campaign Contributions Bill](#).

Gary Kam set forth the draft bill for discussion and decision-making.

Vice Chair Harris proposed amending subsections (c) and (d) of the draft bill to include the phrase "through the completion of the contract".

The Commission voted to adopt the amendment.

Vice Chair Harris expressed concerns about the constitutionality of banning employees at large companies from making campaign contributions. There was discussion among the Commissioners about whether employees should be covered under the prohibition.

Vice Chair Harris proposed an amendment to delete the word "employee" throughout the draft bill, as appropriate.

The Commission voted to adopt the amendment. Commissioner Leverenz abstained.

The Commission voted to adopt the draft bill, twice amended. Commissioners Izumi-Nitao and Leverenz abstained.

H. Service of Preliminary Determination of Probable Cause orders (HRS §11-405)

The draft bill can be found here: [Draft Preliminary Determination of Probable Cause Bill](#).

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Gary Kam set forth the draft bill for discussion and decision-making.

The Commission voted to adopt the draft bill.

I. Campaign Spending Commission complaints (HRS §11-403)

The draft bill can be found here: [Draft Complaints Alleging Campaign Spending Violations Bill](#).

Gary Kam set forth the draft bill for discussion and decision-making.

The Commission voted to adopt the draft bill.

J. Eliminating the use of campaign funds to purchase up to two tickets for an event or fundraiser held by another candidate or committee (HRS §11-381)

The draft bill can be found here: [Draft Prohibition of Campaign Funds for Two Tickets Bill](#).

Commissioner Izumi-Nitao set forth the draft bill for discussion and decision-making.

The Commission voted to adopt the draft bill.

J1. [Proposed amendment by Common Cause Hawaii and League of Women Voters of Hawaii](#) – Eliminates the use of campaign funds to purchase up to two tickets for an event or fundraiser held by another candidate or committee as well as the use of campaign funds for charitable/community donations, public school/library donations, and full-time scholarship awards (HRS §11-381). Also, eliminates ballot issue committees from returning surplus funds to charitable/community organizations as donations (HRS §11-327).

The Commission decided to consider the proposed amendment as a separate draft bill from the one immediately before it.

Commissioners Mason and Leverenz set forth the draft bill for discussion and decision-making.

Commissioner Marumoto expressed her opposition to this draft bill.

The Commission voted to adopt the draft bill. Commissioner Marumoto voted in opposition. Commissioner Izumi-Nitao abstained.

V. Consideration of Draft Bills Deferred from Prior Meetings

A. Recordings of Public Meetings Draft Bill (deferred from the October 5, 2022, meeting)

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Commissioner Leverenz stated that final language for this draft bill is still being prepared.

B. Public Records Draft Bill (deferred from the October 5, 2022, meeting)

Commissioner Mason explained the amendments to the draft bill, which can be found here: [Draft Open Records Bill Revised](#).

The Commission voted to adopt the amended draft bill.

C. Elections Draft Bill (deferred from the October 5, 2022, meeting)

Commissioner Mason noted that the Office of Elections had submitted supportive written testimony. Commissioner Mason also mentioned that the draft bill has started to be circulated to other agencies, besides the Office of Elections, for comment.

The Commission voted to adopt the draft bill.

VI. Other Matters

Chair Foley reminded the Commission that he will be entering a currently-scheduled four-week arbitration meeting beginning on October 24, 2022. In his absence, Vice Chair Harris will preside over the meetings. Although Chair Foley will not be present to vote, he will be reviewing all documents and providing his input.

VII. Next Meetings

The Commission's next meetings are scheduled for October 26, 2022; November 2, 2022; and November 9, 2022.

On October 26, 2022, Vice Chair Harris will be discussing ethics and legislative process. Because he will be presenting at the meeting, Vice Chair Harris asked if another Commissioner could chair that meeting. Commissioner Mason volunteered to chair the October 26, 2022, meeting without any objections of the Commission.

Chair Foley asked if any Commissioner had something to present on November 2, 2022.

Commissioner Nakakuni explained that the Hawaii Prosecuting Attorneys' Association (composed of the Attorney General of four county prosecutors) will be meeting on November 1, 2022, to discuss a legislative package of bills addressing public corruption. She would like to present those bills on November 9, 2022, to ensure that there is sufficient time to make the bills available for public comment. Commissioner Nakakuni anticipates that there will be approximately three to five bills.

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Commissioner Izumi-Nitao will also present a bill on publicly financed elections at the November 9, 2022, meeting.

At the moment, nothing has been scheduled for November 2, 2022, but Chair Foley would like the commissioners to keep this date open as measures pertaining to Super PACs and public meetings may be ready to discuss at that time.

Chair Foley anticipates tentatively concluding all consideration of draft bills and rules on November 9, 2022, which would provide three weeks to begin finalizing a draft of the report and circulating the report for consideration. Any changes to the schedule can be taken up at the October 26, 2022, meeting.

The Commission's next meeting is scheduled for October 26, 2022, at 2:00 p.m.

The meeting adjourned at 3:06 p.m.

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Commission to Improve Standards of Conduct

Members:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Nikos Leverenz, Common Cause Hawaii Advisory Board Member;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii.

Note: Ms. Sandy Ma, Executive Director of Common Cause Hawaii, resigned from the Commission effective June 17, 2022, and Mr. Nikos Leverenz was appointed by Speaker of the House of Representatives Scott Saiki to fill that vacancy via [memorandum](#) on the same day.

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The Commission may be contacted via email at standardsofconduct@capitol.hawaii.gov.

I. Call to order/Roll call

Commissioner Mason convened the meeting at 2:00 p.m. All Commissioners were present for the meeting, except for Chair Foley and Commissioner Izumi-Nitao who were excused.

II. Approval of minutes

Commissioner Harris moved, and Commissioner Leverenz seconded, to approve the [minutes of the October 19, 2022, meeting](#) of the Commission. The motion carried.

III. Public testimony

The Commission received written public testimony from the Department of Land and Natural Resources, Pono Advocacy LLC, and three individuals.

The Commission heard oral public testimony from the Department of Land and Natural Resources and three individuals. Two individuals expounded on their written testimonies, of which one individual suggested amending the House and Senate Rules to:

- Include the establishment of a commission, body, or neutral party to address and investigate potential violations by legislators;
- Strengthen the attendance of conference committee members at conference meetings; and
- Establish a form of identification for lobbyists, such as the wearing of identification.

An individual provided oral testimony on the need for bold changes to improve legislative effectiveness that include disclosure of consultancy-type lobbying or income, appropriation of funds for public financing, banning of donations during session and two weeks before and two weeks after session, and greater advocacy for applying the Sunshine Law to the legislative process.

The Commission members commented on and had discussion on the oral testimonies.

In its oral testimony, the Department of Land and Natural Resources referred to its comments and positions on transparency measures in its written testimony.

IV. Consideration of Draft Bills, Resolutions, and Legislative Rules Related to Ethics and the Legislative Process

Commissioner Harris facilitated the discussion of the draft bills, resolutions, and legislative rules related to ethics and the legislative process, and set forth the following draft measures for discussion and decision-making by the Commission:

- A. Prohibiting the hiring or supervising of relatives or household members

The draft bill can be found here: [10-26-22 Draft Nepotism Bill](#).

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Commissioner Harris proposed an amendment on page 4, line 14 (subsection (d) of the bill) to amend the language in the draft bill to read: "... from taking official action and is legally required to take action that directly impacts a relative or household member"

Commissioner Mason moved, and Commissioner Leverenz seconded, to adopt the amendment to the draft bill. The motion carried.

The Commission, by vote, adopted the draft bill, as amended.

B. Funding grant-in-aid for county ethic boards or commissions

The draft bill can be found here: [10-26-22 Draft County Ethics Funding Bill](#).

Commissioner Harris stated that there is a State Ethics Commission and county ethics commissions with constitutionally-delegated responsibilities to these entities. He indicated that some of the commissions do not have full-time staff and rely on volunteers. Commissioner Harris proposed amending the draft bill to include the City and County of Honolulu to enable it also to apply for the grant-in-aid in the draft bill.

Commissioner Leverenz inquired whether the counties have an obligation to have ethics commissions by the State Constitution. Commissioner Harris responded that under the State Constitution, the counties have this obligation and there is delegation to the both Legislature and county councils to identify the scope.

Commission discussion included the following comments:

- Concern that the grant-in-aid to the counties would provide resources to something the counties should already be doing; and
- Suggestion that the provisions in the draft bill be a pilot.

Commissioner Leverenz stated he would abstain on the funding aspect of the draft bill but would support the draft resolution on today's agenda.

Commissioner Harris proposed deferring the draft bill to the next Commission meeting and including language that this measure is intended as a pilot to incentivize the counties to fulfill their duties.

The Commission, by vote, deferred this draft bill to the next meeting. Commissioner Marumoto abstained.

C. Resolution requesting county governments to review existing programs and develop systematic improvements to prevent future corruption and ethical violations

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The draft resolution can be found here: [10-26-22 Draft County Government Structure Review Resolution](#).

Commissioner Leverenz moved, and it was seconded, to adopt the draft resolution. The Commission, by vote, adopted the draft resolution.

D. Publishing reports of legislative allowance expenditures online

The draft bill can be found here: [10-26-22 Draft Legislative Allowance Disclosure Bill](#).

Commissioner Harris stated that each legislator is allocated a percentage of their legislative allowance, and that while this information is currently public, it is not easily accessible. He elaborated that this draft bill would require that legislative allowance expenditures for legislative members be posted online.

Commissioner Leverenz moved, and Commissioner Marumoto seconded, to adopt the draft bill. The Commission, by vote, adopted the draft bill.

E. Requiring legislators to disclose financial relationships with lobbyists or lobbying organizations

The draft bill can be found here: [10-26-22 Draft Legislator Financial Disclosures Bill](#).

Commissioner Harris stated that this draft bill is an attempt to require legislative members to disclose relationships with lobbyists or lobbying organizations specific to business or financial interests. He added that there may be challenges to this measure both politically and legally.

Commissioner Leverenz moved, and Commissioner Marumoto seconded, to adopt the draft bill. The Commission, by vote, adopted the draft bill.

F. Compelling lobbyists to disclose matters lobbied on with greater specificity

The draft bill can be found here: [10-26-22 Draft Lobbyist Disclosure Bill](#).

Commissioner Leverenz requested a friendly amendment to insert information concerning budget items on page 4, line 10, of the draft bill.

Commission discussion centered on disclosing the drafters of legislation and including legislative drafts and other legislative documents as part of the legislative history submitted to the State Archives. Commissioner Harris suggested that the draft Bill of Rights Bill could include that any proposed drafts of legislation be part of the legislative record.

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Commissioner Leverenz moved, and it was seconded, to amend the draft bill to include information concerning budget items on page 4, line 10, of the draft bill. The motion carried.

Commissioner Leverenz moved, and Commissioner Marumoto seconded, to adopt the draft bill, as amended. The Commission, by vote, adopted the draft bill, as amended.

G. Establishing a mandatory lobbyist training program

The draft bill can be found here: [10-26-22 Draft Mandatory Lobbyist Training Bill](#).

Commissioner Harris stated that lobbyist training is already offered with relatively high participation; however, the intent is to capture those who currently are not attending training. He indicated that the State Ethics Commission would keep records of those who have gone through the training program; however, individuals would also be asked to retain their certificates of completion of training as proof of completion. Commissioner Harris also stated that the State Ethics Commission currently has self-directed, online lobbyist training courses that take about 30 minutes and has live Zoom training courses.

Commissioner Leverenz moved, and Commissioner Marumoto seconded, to adopt the draft bill. The Commission, by vote, adopted the draft bill.

H. Preventing lobbyists from giving prohibited gifts to legislators or state employees

The draft bill can be found here: [10-26-22 Draft Unlawful Lobbyist Gifts Bill](#).

Commissioner Harris stated that currently there is a gift restriction in the State Code of Ethics that applies to legislators, state employees, and board and commission members; however, there is currently no restriction on lobbyists for giving gifts. This measure creates a reciprocal obligation for legislators, state employees, and lobbyists.

Commissioner Mason proposed an amendment to the draft bill to increase the proposed administrative fine to up to \$10,000. Commissioner Harris indicated that he would abstain on the proposed amendment as there are mirroring provisions in the State Ethics Code and the fines in the draft bill are per violation. Given the feedback, Commissioner Leverenz did not think the proposed amendment was necessary.

Commissioner Harris elaborated that the gifts of aloha term was created by the State Ethics Commission, and the intent was to recognize reciprocal gifts that are common everyday gifts and not gifts beyond reproach or concern. He stated that the idea is to try to create a legislative environment where the expectation is that gifts cannot be given or should not be given to put all on the same footing.

Commissioner Marumoto inquired about the types of gifts that were allowable, such as lunches. In response to Commissioner Marumoto, Commissioner Harris indicated that lunch would not be allowable. He stated that the restriction from lobbyist to legislator has

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clear, defined exceptions and that current rules have a three-part test: Who is giving the gift, what is the value of the gift, and what is the state purpose.

Commissioner Leverenz moved, and Commissioner Harris seconded, to adopt the draft bill. The Commission, by vote, adopted the draft bill. Commissioner Marumoto abstained.

I. Proposing legislative rules to govern conflicts of interest

The draft proposed rules can be found here: [10-26-22 Draft Proposed House Rules](#) and [10-26-22 Draft Proposed Senates Rules](#).

Commissioner Harris stated the attempt is to make recusal the default position and take a broader definition of conflict of interest. Commissioner Harris clarified that these draft proposed House Rules and Senate Rules would be put in the form of a resolution for legislative introduction.

Commissioner Leverenz moved, and Commissioner Mason seconded, to adopt the draft proposed rules. The Commission, by vote, adopted the draft proposed rules. Commissioner Marumoto abstained.

J. Establishing rights for members of the public with respect to the conduct and operation of the legislature and its members

The draft bill can be found here: [10-26-22 Draft Bill of Rights Bill](#).

Commissioner Harris recognized Jim Shon for the original proposal related to this draft bill, which works off of the proposal. Commissioner Harris stated that the Office of the Public Advocate contained in the draft bill would be the entity to address concerns or challenges about how the Legislature is operating.

Commission discussion centered on where to administratively place the Office of the Public Advocate, such as placing the office within the Office of the Ombudsman, Department of the Attorney General, State Ethics Commission, or other existing office.

Commissioner Harris consulted with the Office of the Ombudsman and, in doing so, two concerns were raised if the Office of the Public Advocate were to be placed in the Office of the Ombudsman: (1) The need for additional staffing, space, and other resources for the Office of the Ombudsman; and (2) The matter that the Office of the Ombudsman is a legislative agency is that is tasked with investigating complaints about actions of executive branch agencies, which is different from the focus and responsibilities of the Office of the Public Advocate.

Commissioner Harris proposed that the CISC report acknowledge creation of the Office of the Public Advocate as a placeholder and state that further discussion is needed on whether the Office of the Public Advocate can be incorporated into an existing office with

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existing administrative capacity. He acknowledged that he is not sure whether creating a new office is the best approach, but this is a means to continue discussion.

Commissioner Harris elaborated on the various rights of the public relating to the Legislature that are contained in the Draft Bill of Rights Bill.

Commissioner Harris suggested deferring this draft bill to the next Commission meeting to consider including other provisions suggested by Commission members in discussion. The provisions concern:

- The Sunshine Law;
- The expectation that any legislative decision-making be made in public and articulates the need for decision making discussion;
- The request that substantive bill drafts be made public;
- The elimination of the legislative practice of defecting the effective date in bills; and
- Recognition of Article III, Section 12 of the Hawaii State Constitution regarding the following provision: "Every meeting of a committee in either house or of a committee comprised of a member or members from both houses held for the purpose of making decision on matters referred to the committee shall be open to the public."

Commissioner Harris requested that this draft bill be deferred to the next Commission meeting. By consensus, the Commission members agreed to defer the measure to the next Commission meeting.

V. Consideration of CISC Draft Bills Deferred from Prior Meetings

A. Recordings of Public Meetings (deferred from the October 5, 2022, meeting)

The working draft of this agenda item is still being prepared. The Commission deferred this item to the next Commission meeting.

VI. Other Matters

Commissioner Mason recalled that Commissioner Izumi-Nitao will present a bill on publicly financed elections at the November 9, 2022, meeting.

VII. Next Meetings

The Commission's next meetings are scheduled for November 2, 2022, and November 9, 2022.

The November 2, 2022, agenda will include:

- The three deferred agenda items from today's meeting:

Appendix B – Meeting Minutes October 26, 2022

- Item IV, B: Draft bill on funding grant-in-aid for county ethic boards or commissions;
- Item IV, J: Draft bill on establishing rights for members of the public with respect to the conduct and operation of the legislature and its members (Draft Bill of Rights Bill); and
- Item V, A: Recordings of Public Meetings;
- A resolution or bill on Super PACS; and
- Any additional rule changes.

The November 9, 2022, agenda will include:

- Presentation by Commissioner Nakakuni on a legislative of bills that address public corruption; and
- Presentation by Commissioner Izumi-Nitao on a bill on partial public funding of elections.

Commissioner Harris indicated that he will be drafting the upcoming Commission meeting agenda and will try to get the draft bills online as soon as feasible.

The meeting adjourned at 3:58 p.m.

Appendix B – Meeting Minutes November 2, 2022

Commission to Improve Standards of Conduct

Members:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Nikos Leverenz, Common Cause Hawaii Advisory Board Member;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii.

Note: Ms. Sandy Ma, Executive Director of Common Cause Hawaii, resigned from the Commission effective June 17, 2022, and Mr. Nikos Leverenz was appointed by Speaker of the House of Representatives Scott K. Saiki to fill that vacancy via [memorandum](#) on the same day.

Resources:

The Commission's website, which includes related materials and information such as House Resolution No. 9 (Regular Session of 2022), the Commission's Interim Report, and meeting notices and minutes, can be found here: [Committees \(hawaii.gov\)](#)

Recordings of the Commission's public meetings may be viewed on the House of Representatives' YouTube channel found here: [Hawaii House of Representatives - YouTube](#)

The Commission may be contacted via email at standardsofconduct@capitol.hawaii.gov

I. Call to Order/Roll Call

Vice Chair Harris convened the meeting at 2:01 p.m. All Commissioners were present for the meeting, except for Chair Foley who was excused.

Appendix B – Meeting Minutes November 2, 2022

II. Approval of Minutes

The minutes from the October 26, 2022, meeting of the Commission was approved and adopted.

III. Public Testimony

No written testimony was received by the Commission; however one individual did provide oral testimony. The oral testimony pertained to the sole power of a committee chairperson to determine whether to hear or defer a measure in committee. Having such determination being consolidated to a single chairperson is not good public policy. There needs to be a mechanism in place to allow the public to have an opportunity to get bills with public support heard by the chairperson.

IV. Consideration of Draft Bills Related to Transparency of Donations to Noncandidate Committees

Commissioner Marumoto introduced the following draft bill regarding transparency of donations for discussion and decision making.

The draft bill can be found here: [CISC – Transparency of Donations Bill](#)

Commissioner Marumoto stated that the Campaign Spending Commission was able to provide pertinent information regarding super PACs in Hawaii from 2012 to 2020, and thus determined that this bill may no longer be needed as the Campaign Spending Commission already conducts their own summaries of elections, which can be found on their website under [Election Summaries](#). Commissioner Marumoto then discussed [Act 169, Session Laws of Hawaii 2022](#) (Act 169), which specifies consent procedures for when 501(c)(4) nonprofit organizations operating as noncandidate committees can use donations for electioneering communications and requires 501(c)(4) nonprofit organizations operating as noncandidate committees to disclose the name and address of donors who make a donation of more than \$10,000, with certain exceptions. Commissioner Marumoto asked about expanding Act 169 to cover 501(c)(3) nonprofit organizations. The Campaign Spending Commission discussed that 501(c)(3) nonprofit organizations are not allowed to participate in any political activity or they will lose their tax exemption status, thus an expansion to include those nonprofit organizations may not be necessary. Commissioner Marumoto then recommended that no such bill on this matter be put forward for consideration by members in regard to 501(c)(3) nonprofit organizations.

V. Consideration of CISC Draft Bills from Prior Meetings

Appendix B – Meeting Minutes November 2, 2022

A. Recording of Public Meetings (deferred from 10/5/2022)

The draft bill can be found here: [CISC – Recordings of Public Meetings](#).

The new draft gives boards the discretion to keep recordings available on their website, in addition with written minutes. The bill also allows a board to remove the recording from its website if it has written minutes, but it must send a copy of the recording to the State Archives.

Commissioner Mason moved, and Commissioner Marumoto seconded, to adopt the draft bill. The Commission, by vote, adopted the draft bill.

B. Funding Grant-in-aid for County Ethic Boards or Commissions (deferred from 10/26/2022)

The draft bill can be found here: [CISC – County Ethics Funding Bill](#).

The new draft includes the Ethics Commission of the City and County of Honolulu and clarifies that it is a one-time funding for the counties.

Commissioner Leverenz moved, and Commissioner Mason seconded, to adopt the draft bill. The Commission, by vote, adopted the draft bill.

C. Establishing Rights for Members of the public with Respect to the Conduct and Operation of the Legislature and its Members (deferred from 10/26/2022)

The draft bill can be found here: [CISC - Bill of Rights Bill](#)

The new draft establishes a standard of conduct for legislators and members of the public during the legislative process by creating a new Office of the Public Advocate that is attached to the Department of the Attorney General for administrative purposes. Vice Chair Harris recommends inserting into the report that it may be worthwhile to explore placing the mission and objectives of the Office of the Public Advocate into another existing agency within state government, rather than creating a new office. However, for purposes of continuing the discussion on this idea, the draft bill creates a new entity.

Commissioner Leverenz moved, and Commission Marumoto seconded, to adopt the draft bill. The Commission, by vote, adopted the draft bill.

VI. Other matters

Commissioner Mason requested to have a preliminary discussion regarding the report due to the upcoming deadline. She inquired about establishing a priority list of the measures

Appendix B – Meeting Minutes November 2, 2022

that the Commission is planning on recommending in the report to emphasize the most important bills to the public.

Vice Chair Harris commented that each recommendation of the Commission is equally important and since the Commission is getting assistance with the drafting of the report, it will be the responsibility of the commissioners to review the draft report and provide additional language that provides additional clarity to the report's narrative for each bill and then also highlight certain bills that will potentially have a more widespread impact.

Commissioner Mason requested to come up with a deadline for the Commission members to receive the first draft.

Vice Chair Harris stated that it would be difficult to have that discussion without first discussing offline with those assisting the Commission. However, this matter can be taken up at the next meeting on November 9, 2022.

VII. Next Meeting

Vice Chair Harris inquired about the next scheduled meeting on November 9, 2022, and whether everything is prepared for that meeting.

Commissioner Nakakuni stated that there are three bills, potentially five, that will be put forward to the Commission at the next meeting which have all already been discussed with county prosecutors, Department of the Attorney General, and United States Attorney's Office. Commissioner Izumi-Nitao also confirmed that her bill on partial public financing of elections is ready to go for the next meeting.

Vice Chair Harris asked Commissioner Izumi-Nitao to draft the upcoming hearing notice for the next meeting on November 9, 2022 and 2:00 p.m.

The meeting adjourned at 3:01 p.m.

Appendix B – Meeting Minutes November 9, 2022

Commission to Improve Standards of Conduct

Members:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Nikos Leverenz, Common Cause Hawaii Advisory Board Member;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii.

Note: Ms. Sandy Ma, Executive Director of Common Cause Hawaii, resigned from the Commission effective June 17, 2022, and Mr. Nikos Leverenz was appointed by Speaker of the House of Representatives Scott K. Saiki to fill that vacancy via [memorandum](#) on the same day.

Resources:

The Commission's website, which includes related materials and information such as House Resolution No. 9 (Regular Session of 2022), the Commission's Interim Report, and meeting notices and minutes, can be found here: [Committees \(hawaii.gov\)](#)

Recordings of the Commission's public meetings may be viewed on the House of Representatives' YouTube channel found here: [Hawaii House of Representatives - YouTube](#)

The Commission may be contacted via email at standardsofconduct@capitol.hawaii.gov

I. Call to Order/Roll Call

Vice Chair Harris convened the meeting at 2:04 p.m. All Commissioners were present for the meeting, except for Chair Foley who was excused.

Appendix B – Meeting Minutes November 9, 2022

II. Approval of Minutes

Commissioner Mason moved, and Commissioner Leverenz seconded, to approve the [minutes of the November 2, 2022, meeting](#) of the Commission. The motion carried.

III. Public Testimony

The Commission received written public testimony from the Office of the Public Defender and American Civil Liberties Union of Hawai'i.

The Commission heard oral public testimony from the American Civil Liberties Union of Hawai'i (ACLU), noting its concerns for the draft bills related to criminal law enhancements to address public corruption and fraud. Specifically, in regard to the fraud proposal of the Commission, the ACLU noted that mandatory minimum sentence of one year and elevating the fraud offense to a Class B felony is not a good policy because it takes away discretion from the sentencing judge and can create racial disparities within the criminal justice system. In addition, mandatory minimum sentences can exacerbate correctional system overcrowding and allows prosecutors to use the harsh sentence as leverage in plea bargaining agreements. The ACLU also opposed the ineligibility for deferral pleas in the false statement and false claim bill proposals of the Commission.

IV. Consideration of Draft Bills Related to Criminal Law Enhancements to Address Public Corruption and Fraud

Commission Nakakuni facilitated the discussion of the draft bills.

A. Fraud

The draft bill can be found here: [CISC – Fraud Bill](#).

There was discussion between the Commissioners and the American Civil Liberties Union of Hawai'i regarding the inclusion of a mandatory minimum sentence provision in the draft bill and narrowing the application of the draft bill to public servants and public officials.

Vice Chair Harris proposed an amendment to the draft bill and the two following draft bills to include statutory language in the drafts bill stating that the new statute is based on federal law and should be looked at for guidance. No objections were made. The motion carried.

Appendix B – Meeting Minutes November 9, 2022

Commissioner Izumi-Nitao proposed an amendment to the draft bill, amending the campaign finance statute to disqualify a person from holding elective public office for a period of ten years upon conviction of the general fraud statute. Commissioner Leverenz seconded the amendment. Commissioner Leverenz and Mason opposed the amendment. The motion carried.

The Commission voted to adopt the draft bill, as amended. Commissioners Leverenz and Mason voted in opposition. The Commission, by vote, adopted the draft bill.

Vice Chair Harris noted the potential to discuss in the Final Report concerns raised on the mandatory minimum term of imprisonment provisions included in the draft bill, as amended.

B. False Statements

The draft bill can be found here: [CISC – False Statements Bill](#).

Commission discussion included the following comments:

- Concerns that a defendant not being eligible for a deferred acceptance of guilty plea or nolo contendere plea would remove the options for a judge to use deference in determining an appropriate sentence upon conviction;
- Clarification that the draft bill is more broadly based and covers more conduct compared to perjury provisions; and
- Clarification that the provisions of this draft bill would also cover campaign spending reports.

Commissioner Marumoto moved for an amendment to the draft bill to disqualify a person from holding elective public office for a period of ten years upon conviction of the false statements statute. Commissioner Nakakuni seconded the amendment. Commissioner Leverenz and Mason opposed the amendment. The motion carried.

Vice Chair Harris moved for an amendment removing language that prevents a defendant from being eligible for a deferred acceptance of guilty plea or nolo contendere plea. Commissioner Mason seconded the amendment. Commissioner Izumi-Nitao commented that there are other criminal statutes for which a deferred acceptance plea or no contest plea are not permitted. Vice Chair Harris and Commissioner Mason supported the amendment. Commissioner Izumi-Nitao, Marumoto, and Nakakuni opposed the amendment. Commissioner Leverenz abstained from the vote. The motion failed.

The Commission voted to adopt the draft bill, as amended to include a ten year prohibition on from holding public office. Commissioners Leverenz and Mason voted in opposition. The Commission, by vote, adopted the draft bill, as amended.

Appendix B – Meeting Minutes November 9, 2022

C. False Claims

The draft bill can be found here: [CISC – False Claims Bill](#).

Commissioner Izumi-Nitao moved for an amendment to the draft bill to disqualify a person from holding elective public office for a period of ten years upon conviction of the false claims statute. Commissioner Nakakuni seconded the amendment. Commissioner Leverenz and Mason opposed the amendment. The motion carried.

The Commission voted to adopt the draft bill, as amended. Commissioners Leverenz and Mason voted in opposition. The Commission, by vote, adopted the draft bill, as amended.

V. Consideration of Draft Bill Related to Increasing Partial Public Financing of Elections

Commissioner Izumi-Nitao; Tony Baldomero, Associate Director of the Campaign Spending Commission; and Gary Kam, General Counsel of the Campaign Spending Commission, facilitated the discussion of the draft bill.

The draft bill can be found here: [CISC – Partial Public Financing of Elections](#).

Commissioner Leverenz raised his reservation on the draft bill and how the draft bill could do more and hopes that the Legislature will look at contribution limits, increasing funds from tax form contributions, write-offs, and address the ability of candidates to obtain loans from immediate family members which often work to circumvent the contribution limit laws.

Vice Chair Harris remarked that the public financing of elections is dependent on funding from the Legislature and asked the Campaign Spending Commission if there is a mechanism to address a situation where candidates are drawing more money than the funds are capable of providing. The Campaign Spending Commission specified that the state statutes provide two formulas. When the fund is close to depletion, applications for funding are processed on a first come, first serve basis. When the fund is near depletion, the public funding program is stopped.

Commissioner Marumoto moved, and Commissioner Leverenz seconded, to adopt the draft bill. The Commission, by vote, adopted the draft bill.

Appendix B – Meeting Minutes November 9, 2022

VI. Other matters

Vice Chair Harris indicated that the next step of the Commission is to prepare a draft of the Final Report and circulate the draft to commissioners for feedback and comment. This process will be taken via email as there is not sufficient time to engage in the idea of completing the Final Report and having a public hearing on the Final Report. The Commission would not be in a position to take public comments on the Final Report and potentially amend the Report and still meet the submittal deadline of December 1st to the House of Representatives.

Commissioner Mason asked for clarification on the Final Report and how similar it will be to the Interim Report. Vice Chair Harris noted that the Interim Report had a narrative that indicated who supported each bill, which would be addressed in the Final Report either in the minutes of each meeting or elsewhere. The Final Report will have all bills and resolutions adopted by the Commission and all meeting minutes attached as appendices.

Commissioner Leverenz inquired about the potential for a bill to be drafted pertaining to the prohibition of individuals from running for public office if convicted of certain offenses under chapter 710. Vice Chair Harris discussed the current time constraints for the Commission to meet its reporting deadline and that the Commission's current focus is on drafting and finalizing the Final Report. Due to time constraints, in lieu of drafting the bill, Commissioner Leverenz suggested that a comment be made in the Final Report for the purpose of raising the issue to the Legislature. Vice Chair Harris noted that would be an appropriate solution and alternative.

VII. Meeting Adjournment

The meeting adjourned at 3:36 p.m.

Appendix C

Proposed Legislation

HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO THE LEGISLATURE.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.
10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



H.B. NO.

1 "Office" means the office of the public advocate
2 established pursuant to section -2.

3 "Public advocate" means the head of the office.

4 **§ -2 Office of the public advocate; establishment.** (a)

5 There is established within the department of the attorney
6 general for administrative purposes only the office of the
7 public advocate.

8 (b) The office shall be headed by the public advocate, who
9 shall be nominated and, by and with the advice and consent of
10 the senate, appointed by the governor; provided that the term of
11 the public advocate shall be coterminous with the term of the
12 governor.

13 **§ -3 Staff.** The public advocate shall hire staff
14 necessary to carry out the purposes of this chapter. The public
15 advocate and employees of the office shall be exempt from
16 chapter 76 and shall not be considered civil service employees
17 but shall be entitled to any employee benefit plan normally
18 inuring to civil service employees.

19 **§ -4 Judicial review; immunity.** No proceeding or
20 decision of the public advocate may be reviewed in any court,
21 unless it contravenes the provisions of this chapter. The



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1 public advocate has the same immunities from civil and criminal
2 liability as a judge of this State. The public advocate and the
3 public advocate's staff shall not testify in any court with
4 respect to matters coming to their attention in the exercise or
5 purported exercise of their official duties except as may be
6 necessary to enforce the provisions of this chapter.

7 **§ -5 Penalty for obstruction.** A person who wilfully
8 hinders the lawful actions of the public advocate or the public
9 advocate's staff, or wilfully refuses to comply with their
10 lawful demands, shall be fined no more than \$1,000.

11 **PART II. RIGHTS OF THE PUBLIC RELATING TO THE LEGISLATURE**

12 **§ -11 Rights.** All persons of the public shall have the
13 following rights:

- 14 (1) The right to expect that the person's elected state
15 representative or state senator will be treated with
16 fairness, equity, dignity, respect, and inclusion,
17 regardless of seniority, faction, or party;
- 18 (2) The right to be treated with fairness, equity,
19 dignity, respect, and honesty during public hearings,
20 regardless of their lack of power, status, wealth, or
21 other excuses for unequal treatment. This paragraph,



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1 among other things, shall be construed to prohibit
2 retaliation, including the elimination of a specific
3 position from the budget, for any good faith conduct
4 at a public hearing;

5 (3) The right to provide oral testimony at any public
6 hearing;

7 (4) The right to publicly inspect written testimony no
8 later than twenty-four hours after the written
9 testimony is submitted;

10 (5) The right to expect that all members have access to
11 and sufficient time to review all bill drafts and
12 proposed amendments before formally voting on a
13 measure in committee and on the floor;

14 (6) The right to expect that the original content of a
15 bill is not suddenly and substantially changed without
16 a public hearing on the new content;

17 (7) The right to expect that legislators have sufficient
18 opportunity for open and honest debate on the merits
19 of a bill and to vote on such merits, rather than
20 burdening the legislative process with multiple



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1 referrals on the bill that would effectively inhibit
2 the opportunity for such debate;

3 (8) The right to expect that subject matter committees
4 pass bills without deliberate defects, including
5 defective dates, and with recommended appropriation
6 amounts;

7 (9) The right to expect that standing committees with
8 primary jurisdiction over fiscal matters are not
9 referred bills solely concerning nonfiscal matters;

10 (10) The right to expect that no bill should die in a
11 conference committee due to the absence of a
12 conference chair;

13 (11) The right to publicly inspect all official executive
14 communications, such as budgetary information,
15 submitted to the legislature. For purposes of
16 fulfilling this obligation, the respective legislative
17 chamber shall post all official executive
18 communications on the capitol website within a
19 reasonable period of time;

20 (12) The right to open and transparent decision-making,
21 including the right to hear the rationale for any



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1 decision made by a committee or committee chairperson,
 2 such as the deferral or amendment of a bill, in a
 3 public meeting; and

4 (13) The right to easily inspect drafts of bills submitted
 5 to legislators for introduction or amendment,
 6 including the right to know the identity of the person
 7 who provided the draft if that person is a member of
 8 the public or lobbyist.

9 § -12 **Jurisdiction.** The public advocate has
 10 jurisdiction to investigate violations of rights enumerated
 11 under section -11.

12 § -13 **Procedures; investigation of complaints.** (a) The
 13 public advocate shall establish procedures for receiving and
 14 processing complaints alleging a violation of a right enumerated
 15 under section -11, conducting investigations, and reporting
 16 the public advocate's findings. However, the public advocate
 17 may not levy fees for the submission or investigation of
 18 complaints.

19 (b) The public advocate shall investigate any complaint
 20 alleging a violation of a right enumerated under section -11.
 21 In an investigation, the public advocate may make inquiries and



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1 obtain information as the public advocate deems appropriate,
2 consult with an appropriate agency with subject matter
3 expertise, and hold private hearings.

4 (c) The public advocate is required to maintain secrecy in
5 respect to all matters and the identities of the complainants or
6 witnesses coming before the public advocate, except so far as
7 disclosures may be necessary to enable the public advocate to
8 carry out the public advocate's duties and powers and to support
9 the public advocate's recommendations.

10 § -14 Powers. Subject to the privileges that witnesses
11 have in the courts of this State, the public advocate may:

12 (1) Compel at a specified time and place, by subpoena, the
13 appearance and sworn testimony of any person who the
14 public advocate reasonably believes may be able to
15 give information relating to a matter under
16 investigation; and

17 (2) Compel any person to produce documents, papers, or
18 objects that the public advocate reasonably believes
19 may relate to a matter under investigation.

20 The public advocate may bring suit in an appropriate state
21 court to enforce these powers.



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1 § **-15 Consultation.** Before giving any opinion or
2 recommendation that is critical of a person and except as
3 provided in section -16(c), the public advocate shall consult
4 with that person.

5 § **-16 Procedure after investigation.** (a) After an
6 investigation, the public advocate shall report the public
7 advocate's opinion and recommendations to the presiding officer
8 of the appropriate chamber of the legislature and the
9 complainant.

10 (b) After a reasonable time has elapsed, the public
11 advocate may present the public advocate's opinion and
12 recommendations to the public. The public advocate shall
13 include with this opinion any reply.

14 (c) If the public advocate has a reasonable basis to
15 believe that there may be a breach of duty or misconduct by any
16 legislator or employee of the legislature, the public advocate
17 may refer the matter to the appropriate authorities without
18 notice to that person."

19 SECTION 3. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so
21 much thereof as may be necessary for fiscal year 2023-2024 and



H.B. NO.

1 the same sum or so much thereof as may be necessary for fiscal
2 year 2024-2025 for the purposes of this Act.

3 The sums appropriated shall be expended by the department
4 of the attorney general for the purposes of this Act.

5 SECTION 4. This Act shall take effect on July 1, 2023.

6

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Legislature; Bill of Rights; Public Advocate

Description:

Establishes the office of the public advocate. Establishes rights for members of the public with respect to the conduct and operation of the legislature and its members. Specifies procedures for the investigation and reporting of alleged violations of the rights.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO CAMPAIGN CONTRIBUTIONS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.
10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Accordingly, the purpose of this Act is to implement
10 recommendations of the commission to improve standards of
11 conduct relating to the solicitation and acceptance of campaign
12 contributions by prohibiting state and county elected officials
13 from soliciting and accepting campaign contributions during any
14 regular session or special session of the state legislature.

15 SECTION 2. Section 11-357, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~§~~11-357~~§~~ **Contributions to candidate committees;**
18 **limits~~-~~; contributions to elected officials; when prohibited.**

19 (a) No person shall make contributions to:

20 (1) A candidate seeking nomination or election to a two-
21 year office or to a candidate committee in an



H.B. NO.

1 aggregate amount greater than \$2,000 during an
2 election period;

3 (2) A candidate seeking nomination or election to a four-
4 year nonstatewide office or to a candidate committee
5 in an aggregate amount greater than \$4,000 during an
6 election period; or

7 (3) A candidate seeking nomination or election to a four-
8 year statewide office or to a candidate committee in
9 an aggregate amount greater than \$6,000 during an
10 election period.

11 (b) For purposes of this section, the length of term of an
12 office shall be the usual length of term of the office as
13 unaffected by reapportionment, a special election to fill a
14 vacancy, or any other factor causing the term of the office the
15 candidate is seeking to be less than the usual length of term of
16 that office.

17 (c) During any regular session or special session of the
18 state legislature, including any extension of any regular
19 session or special session and any legislative recess days,
20 holidays, and weekends, no elected official as defined in



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1 section 11-342(d) shall solicit or accept campaign contributions
2 from any person."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

6

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Campaign Contributions; State Elected Officials; County Elected Officials; Legislative Sessions; Prohibition

Description:

Prohibits state and county elected officials from soliciting and accepting campaign contributions during any regular session or special session of the state legislature, including any extension of any regular session or special session and any legislative recess days, holidays, and weekends.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO CAMPAIGN FUNDS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.
10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Accordingly, the purpose of this Act is to implement
10 recommendations of the commission to improve standards of
11 conduct relating to the expenditure of campaign funds by
12 limiting the permitted uses of these funds to only those
13 purposes that are directly related to the campaigns of
14 candidates.

15 SECTION 2. Section 11-327, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) A ballot issue committee shall return all surplus
18 funds to the contributors [~~or donate funds to a community~~
19 ~~service, educational, youth, recreational, charitable,~~
20 ~~scientific, or literary organization]~~ within ninety days after
21 the election for which the issue appeared on the ballot.



H.B. NO.

1 Surplus funds that are not returned [~~or donated~~] within ninety
2 days after the election for which the issue appeared on the
3 ballot shall escheat to the Hawaii election campaign fund."

4 SECTION 3. Section 11-381, Hawaii Revised Statutes, is
5 amended by amending subsection (a) read as follows:

6 "(a) Campaign funds may be used by a candidate, treasurer,
7 or candidate committee:

8 (1) For any purpose directly related:

9 (A) In the case of the candidate, to the candidate's
10 own campaign; or

11 (B) In the case of a candidate committee or treasurer
12 of a candidate committee, to the campaign of the
13 candidate, question, or issue with which they are
14 directly associated;

15 (2) To purchase or lease consumer goods, vehicles,
16 equipment, and services that provide a mixed benefit
17 to the candidate. The candidate, however, shall
18 reimburse the candidate's candidate committee for the
19 candidate's personal use of these items unless the
20 personal use is de minimis;



H.B. NO.

- 1 ~~[(3) To make donations to any community service,~~
2 ~~educational, youth, recreational, charitable,~~
3 ~~scientific, or literary organization; provided that in~~
4 ~~any election period, the total amount of all donations~~
5 ~~shall be no more than twice the maximum amount that~~
6 ~~one person may contribute to that candidate pursuant~~
7 ~~to section 11-357; provided further that no donations~~
8 ~~shall be made from the date the candidate files~~
9 ~~nomination papers to the date of the general election~~
10 ~~unless the candidate is:~~
- 11 ~~(A) Declared to be duly and legally elected to the~~
12 ~~office for which the person is a candidate~~
13 ~~pursuant to section 12-41;~~
- 14 ~~(B) Deemed and declared to be duly and legally~~
15 ~~elected to the office for which the person is a~~
16 ~~candidate pursuant to section 12-42; or~~
- 17 ~~(C) Unsuccessful in the primary or special primary~~
18 ~~election;~~
- 19 ~~(4) To make donations to any public school or public~~
20 ~~library; provided that in any election period, the~~
21 ~~total amount of all contributions shall be no more~~



H.B. NO.

1 ~~than twice the maximum amount that one person may~~
2 ~~contribute to that candidate pursuant to section 11-~~
3 ~~357; provided further that any donation under this~~
4 ~~paragraph shall not be aggregated with or imputed~~
5 ~~toward any limitation on donations pursuant to~~
6 ~~paragraph (3);~~

7 ~~(5) To award scholarships to full-time students attending~~
8 ~~an institution of higher education or a vocational~~
9 ~~education school in a program leading to a degree,~~
10 ~~certificate, or other recognized educational~~
11 ~~credential; provided that in any election period, the~~
12 ~~total amount of all scholarships awarded shall be no~~
13 ~~more than twice the maximum amount that one person may~~
14 ~~contribute to that candidate pursuant to section 11-~~
15 ~~357; provided further that no awards shall be made~~
16 ~~from the filing deadline for nomination papers to the~~
17 ~~date of the general election unless the candidate is:~~
18 ~~(A) Declared to be duly and legally elected to the~~
19 ~~office for which the person is a candidate~~
20 ~~pursuant to section 12-41;~~



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1 ~~(B) Deemed and declared to be duly and legally~~
2 ~~elected to the office for which the person is a~~
3 ~~candidate pursuant to section 12-42; or~~

4 ~~(C) Unsuccessful in the primary or special primary~~
5 ~~election;~~

6 ~~(6) To purchase not more than two tickets for each event~~
7 ~~held by another candidate or committee, regardless of~~
8 ~~whether the event constitutes a fundraiser as defined~~
9 ~~in section 11-342;]~~

10 ~~[(7)]~~ (3) To make contributions to the candidate's party so
11 long as the contributions are not earmarked for
12 another candidate; or

13 ~~[(8)]~~ (4) To pay for ordinary and necessary expenses
14 incurred in connection with the candidate's duties as
15 a holder of an office, including expenses incurred for
16 memberships in civic or community groups."

17 SECTION 4. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.



H.B. NO.

1 SECTION 5. This Act shall take effect upon its approval.

2

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Campaign Funds;
Permitted Uses

Description:

Limits the permitted uses of campaign funds to only those purposes that are directly related to the campaigns of candidates.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO CAMPAIGN SPENDING CASH CONTRIBUTIONS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9, Regular Session
3 of 2022, to establish the commission to improve standards of
4 conduct. The resolution requests the commission ensure state
5 laws and rules relating to standards of conduct of public
6 officers and employees contain clear standards, enforcement, and
7 penalties and provide recommendations to increase awareness of,
8 compliance with, and deterrent effects of the code of ethics,
9 lobbying laws, campaign finance laws, and other relevant laws
10 and rules.

11 Pursuant to House Resolution No. 9, the commission to
12 improve standards of conduct convened regularly throughout 2022
13 to diligently review, discuss, and consider the issues
14 presented, submitted an interim report to the house of
15 representatives outlining areas of immediate and long-term
16 focus, then continued its work with input from the public and



H.B. NO.

1 invited individuals and agencies to issue a final report with
2 various recommendations and accompanying proposed legislation.

3 The legislature also finds that the strength and stability
4 of our democratic government rely upon the public's trust in
5 government institutions, including the expectation that officers
6 act ethically with prudence, integrity, and sound judgement.
7 Therefore, an essential goal of the commission was to provide
8 recommendations that would help restore public trust in state
9 government and increase the level of transparency in its
10 operations and accountability of individuals.

11 Accordingly, the purpose of this Act is to implement
12 recommendations of the commission to improve standards of
13 conduct relating to campaign contributions by limiting the
14 amount of cash contributions a candidate, candidate committee,
15 or noncandidate committee can accept to one hundred dollars.

16 SECTION 2. Section 11-351, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) A candidate, candidate committee, or noncandidate
19 committee, shall not accept a contribution of more than \$100 in
20 cash in the aggregate during an election period from a single
21 person [~~without issuing~~] and shall issue a receipt to the



H.B. NO.

1 contributor for each contribution and [~~keeping~~] keep a record of
2 the contribution."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on July 1, 2023.

6

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Campaign Spending;
Cash Contributions

Description:

Limits the amount of cash contributions a candidate, candidate committee, or noncandidate committee can accept in the aggregate in an election period to \$100. Requires receipts for each contribution.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO CAMPAIGN SPENDING COMMISSION ORDERS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.
10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Accordingly, the purpose of this Act is to implement
10 recommendations of the commission to improve standards of
11 conduct relating to orders of the campaign spending commission
12 by providing that:

- 13 (1) A person waives the right to a contested case hearing
14 if the person fails to request a contested case
15 hearing within twenty days of receipt of the
16 commission's preliminary determination; and
- 17 (2) A final order of the commission may be filed in the
18 circuit court of the first circuit for confirmation as
19 a civil judgment, enforceable and collectible as any
20 other judgment issued in the circuit courts.



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1 SECTION 2. Section 11-410, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (b) to read:

4 "(b) Any order for the assessment of an administrative
5 fine shall not be issued against a person without providing the
6 person written notice and an opportunity to be heard at a
7 hearing conducted under chapter 91. A person may waive these
8 rights by written stipulation or consent[-]; provided that in
9 the absence of waiver by written stipulation or consent these
10 rights shall be deemed waived if the order is a preliminary
11 determination of probable cause rendered during a chapter 92
12 meeting pursuant to section 11-403 and the person fails to
13 request a contested case hearing within twenty days of receipt
14 of the preliminary determination, as provided in section 11-
15 405(b)."

16 2. By amending subsection (d) to read:

17 "(d) If the person to whom the commission's order is
18 directed does not comply with the order, the first circuit
19 court, upon application of the commission, shall issue an order
20 requiring the person to comply with the commission's order.
21 Failure to obey such a court order shall be punished as



H.B. NO.

1 contempt. In addition to contempt proceedings, the commission
 2 may file the commission's order in the first circuit court to
 3 have the order confirmed as a judgment, which shall then have
 4 the same force and effect and shall be enforceable and
 5 collectible in the same manner as other judgments issued by the
 6 circuit courts; provided that there shall be no appeal from the
 7 judgment."

8 SECTION 3. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon its approval.

11

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Campaign Spending Commission; Orders; Judgments; Enforcement of Judgments; Administrative Fines

Description:

Provides that a person waives the right to a contested case hearing if the person fails to request a contested case hearing within twenty days of receipt of the commission's preliminary determination. Provides that a final order of the commission may be filed in the circuit court of the first circuit for confirmation as a civil judgment, enforceable and collectible as any other judgment issued in the circuit courts.

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HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO COMPLAINTS ALLEGING VIOLATIONS OF CAMPAIGN SPENDING LAWS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.
10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and



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1 invited individuals and agencies to issue a final report with
2 various recommendations and accompanying proposed legislation.

3 The legislature also finds that the strength and stability
4 of our democratic government rely upon the public's trust in
5 government institutions, including the expectation that officers
6 act ethically with prudence, integrity, and sound judgement.
7 Therefore, an essential goal of the commission was to provide
8 recommendations that would help restore public trust in state
9 government and increase the level of transparency in its
10 operations and accountability of individuals.

11 The legislature notes that the campaign spending commission
12 consists of five staff members and five commissioners who are
13 volunteers in the community and meet once a month in accordance
14 with the State's sunshine laws. Despite only having a few staff
15 and commissioners, the commission regulates over six hundred
16 candidate and noncandidate committees. The legislature believes
17 that this Act will allow the campaign spending commission to
18 timely and efficiently address campaign finance violations,
19 which is especially critical in election years.

20 Accordingly, the purpose of this Act is to implement
21 recommendations of the commission to improve standards of



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1 conduct relating to complaints alleging violations of campaign
2 spending laws.

3 SECTION 2. Section 11-403, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~{}~~§11-403~~{}~~ **Notice of complaint; opportunity to explain
6 or respond to complaint~~-~~; failure to explain or respond to**

7 **complaint.** (a) The commission shall give notice of receipt of
8 the complaint and a copy of the complaint to the respondent.

9 (b) The respondent may explain or otherwise respond in
10 writing to the complaint and explain or otherwise respond to the
11 complaint at a meeting promptly noticed by the commission and
12 conducted under chapter 92~~-~~; provided that if the respondent
13 fails to explain or otherwise respond to the complaint, the
14 commission may treat the failure to explain or respond as a
15 presumption that a violation has occurred."

16 SECTION 3. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 4. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 5. This Act shall take effect upon its approval.



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1

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Campaign Spending Commission Package; Complaints; Campaign Spending Violations; Presumption of Violation

Description:

Allows the campaign spending commission to presume a violation of campaign spending laws has occurred if a respondent fails to explain or otherwise respond to a complaint alleging a campaign spending violation.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

MAKING AN APPROPRIATION FOR COUNTY ETHICS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9, Regular Session
3 of 2022, to establish the commission to improve standards of
4 conduct. The resolution requests the commission ensure state
5 laws and rules relating to standards of conduct of public
6 officers and employees contain clear standards, enforcement, and
7 penalties and provide recommendations to increase awareness of,
8 compliance with, and deterrent effects of the code of ethics,
9 lobbying laws, campaign finance laws, and other relevant laws
10 and rules.

11 Pursuant to House Resolution No. 9, the commission to
12 improve standards of conduct convened regularly throughout 2022
13 to diligently review, discuss, and consider the issues
14 presented, submitted an interim report to the house of
15 representatives outlining areas of immediate and long-term
16 focus, then continued its work with input from the public and



H.B. NO.

1 invited individuals and agencies to issue a final report with
2 various recommendations and accompanying proposed legislation.

3 The legislature also finds that the strength and stability
4 of our democratic government rely upon the public's trust in
5 government institutions, including the expectation that officers
6 act ethically with prudence, integrity, and sound judgement.
7 Therefore, an essential goal of the commission was to provide
8 recommendations that would help restore public trust in state
9 government and increase the level of transparency in its
10 operations and accountability of individuals.

11 The legislature additionally finds that many of the county
12 ethics boards or commissions lack the necessary resources to
13 adequately meet their constitutionally mandated obligations.
14 Limited or no staffing prevents these entities from sufficiently
15 investigating complaints, providing advice to current county
16 employees, or offering trainings on how to follow the pertinent
17 code of ethics.

18 Providing a one-time grant-in-aid would allow the county
19 entities to develop the infrastructure and capacity to better
20 meet the constitutional mandate of holding public officers and
21 employees to "the highest standards of ethical conduct". It



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1 would also allow the counties to appropriately establish greater
2 and more reliable funding over time.

3 Accordingly, the purpose of this Act is to implement
4 recommendations of the commission to improve standards of
5 conduct relating to adequate funding for county ethics boards.

6 SECTION 2. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ or so
8 much thereof as may be necessary for fiscal year 2023-2024 as a
9 grant-in-aid to the board of ethics of the county of Kauai.

10 The sum appropriated shall be expended by the county of
11 Kauai for the purposes of this Act.

12 SECTION 3. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$ or so
14 much thereof as may be necessary for fiscal year 2023-2024 as a
15 grant-in-aid to the board of ethics of the county of Maui.

16 The sum appropriated shall be expended by the county of
17 Maui for the purposes of this Act.

18 SECTION 4. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$ or so
20 much thereof as may be necessary for fiscal year 2023-2024 as a
21 grant-in-aid to the board of ethics of the county of Hawaii.



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1 The sum appropriated shall be expended by the county of
2 Hawaii for the purposes of this Act.

3 SECTION 5. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2023-2024 as a
6 grant-in-aid to the ethics commission of the city and county of
7 Honolulu.

8 The sums appropriated shall be expended by the city and
9 county of Honolulu for the purposes of this Act.

10 SECTION 6. This Act shall take effect on July 1, 2023.

11

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Counties; Ethics Boards; Grant-in-aid; Appropriation

Description:

Provides grants in aid to several counties' boards of ethics.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.C.R. NO.

HOUSE CONCURRENT RESOLUTION

URGING THE COUNTY GOVERNMENTS TO REVIEW THEIR RESPECTIVE
GOVERNMENT STRUCTURE TO IDENTIFY ORGANIZATIONAL RISKS OF
CORRUPTION AND ETHICAL VIOLATIONS AND TO DEVELOP SYSTEMATIC
IMPROVEMENTS TO SUCH RISKS.

1 WHEREAS, the House of Representatives adopted House
2 Resolution No. 9 (2022) to establish the Commission to Improve
3 Standards of Conduct; and
4

5 WHEREAS, House Resolution No. 9 requests the Commission
6 ensure state laws and rules relating to standards of conduct of
7 public officers and employees contain clear standards,
8 enforcement, and penalties and provide recommendations to
9 increase awareness of, compliance with, and deterrent effects of
10 the Code of Ethics, lobbying laws, campaign finance laws, and
11 other relevant laws and rules; and
12

13 WHEREAS, pursuant to House Resolution No. 9, the Commission
14 to Improve Standards of Conduct convened regularly throughout
15 2022 to diligently review, discuss, and consider the issues
16 presented, submitted an interim report to the house of
17 representatives outlining areas of immediate and long-term
18 focus, then continued its work with input from the public and
19 invited individuals and agencies to issue a final report with
20 various recommendations and accompanying proposed legislation;
21 and
22

23 WHEREAS, the strength and stability of our democratic
24 government rely upon the public's trust in government
25 institutions, including the expectation that officers act
26 ethically with prudence, integrity, and sound judgement; and
27

28 WHEREAS, an essential goal of the Commission was to provide
29 recommendations that would help restore public trust in



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1 government and increase the level of transparency in its
2 operations and accountability of individuals; and

3
4 WHEREAS, the Hawaii State Constitution places a duty on all
5 civil servants to "exhibit the highest standards of ethical
6 conduct"; and

7
8 WHEREAS, recent allegations of corruption and ethics
9 violations were made against several county officials throughout
10 the State; and

11
12 WHEREAS, in the City and County of Honolulu, several
13 Department of Planning and Permitting employees were charged
14 with and pled guilty to accepting bribes in exchange for
15 expediting the permitting process for projects; and

16
17 WHEREAS, in the County of Hawaii, a former Hawaii County
18 housing official was charged with and later plead guilty to one
19 felony charge of honest services wire fraud, after accepting
20 nearly \$2,000,000 in bribes and kickbacks in exchange for the
21 approval of affordable housing credits; and

22
23 WHEREAS, in the County of Maui, a former Maui County
24 official was accused by federal prosecutors of taking \$2,000,000
25 in bribes to steer \$19,000,000 in contracts to certain companies
26 and charged with conspiracy to deprive the public of their right
27 to honest services; and

28
29 WHEREAS, these events have shaken the public's trust in the
30 strength and integrity of the county governments; and

31
32 WHEREAS, to implement the recommendations of the Commission
33 to Improve Standards of Conduct, a review of each county's
34 government structure, including identifying problems and
35 developing systematic improvements that will prevent future
36 situations involving corruption and ethical violations, is
37 needed to help restore the public's trust in government; now,
38 therefore,

39
40 BE IT RESOLVED by the House of Representatives of the
41 Thirty-second Legislature of the State of Hawaii, Regular
42 Session of 2023, the Senate concurring, that the county



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1 governments are urged to review their respective government
 2 structure to identify organizational risks of corruption and
 3 ethical violations and to develop systematic improvements to
 4 such risks; and

5
 6 BE IT FURTHER RESOLVED that the counties, when performing
 7 their respective reviews, are urged to:

- 8
 9 (1) Examine and identify any gaps or shortfalls in
 10 government structure that could have contributed to
 11 the recent cases involving corruption or ethics
 12 violations by county employees within their respective
 13 jurisdictions;
 14
 15 (2) Consult with and use existing state and county
 16 resources and department and agency personnel to carry
 17 out the objectives of this Concurrent Resolution; and
 18
 19 (3) Develop mechanisms for county-level independent
 20 oversight of executive departments; and

21
 22 BE IT FURTHER RESOLVED that certified copies of this
 23 Concurrent Resolution be transmitted to the Mayor of the City
 24 and County of Honolulu; Mayors of the Counties of Hawaii, Kauai,
 25 and Maui; Chairperson of the Honolulu City Council; and
 26 Chairpersons of the Hawaii, Kauai, and Maui County Councils.
 27
 28
 29

OFFERED BY: _____



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO CANDIDATE COMMITTEE AND NONCANDIDATE COMMITTEE
ORGANIZATIONAL REPORTS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9, Regular Session
3 of 2022, to establish the commission to improve standards of
4 conduct. The resolution requests the commission ensure state
5 laws and rules relating to standards of conduct of public
6 officers and employees contain clear standards, enforcement, and
7 penalties and provide recommendations to increase awareness of,
8 compliance with, and deterrent effects of the code of ethics,
9 lobbying laws, campaign finance laws, and other relevant laws
10 and rules.

11 Pursuant to House Resolution No. 9, the commission to
12 improve standards of conduct convened regularly throughout 2022
13 to diligently review, discuss, and consider the issues
14 presented, submitted an interim report to the house of
15 representatives outlining areas of immediate and long-term
16 focus, then continued its work with input from the public and



H.B. NO.

1 invited individuals and agencies to issue a final report with
2 various recommendations and accompanying proposed legislation.

3 The legislature also finds that the strength and stability
4 of our democratic government rely upon the public's trust in
5 government institutions, including the expectation that officers
6 act ethically with prudence, integrity, and sound judgement.
7 Therefore, an essential goal of the commission was to provide
8 recommendations that would help restore public trust in state
9 government and increase the level of transparency in its
10 operations and accountability of individuals.

11 Pursuant to state law, candidate committees and
12 noncandidate committees are required to file organizational
13 reports by certain deadlines. However, the legislature finds
14 that in every election, there are candidates and persons who
15 qualify as noncandidate committees who fail to register, thereby
16 preventing the public from seeing who is in charge of these
17 committees and their organizational reports.

18 Accordingly, the purpose of this Act is to implement
19 recommendations of the commission to improve standards of
20 conduct relating to campaign finance by requiring the campaign
21 spending commission to publish on its website the names of



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1 candidate committees and noncandidate committees who fail to
2 properly file an organizational report.

3 SECTION 2. Section 11-322, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§11-322 Organizational report, candidate committee.** (a)

6 The candidate committee organizational report shall include:

- 7 (1) The committee's name and address, including web page
8 address, if any;
- 9 (2) The candidate's name, address, and telephone number;
- 10 (3) The office being sought by the candidate, district,
11 and party affiliation;
- 12 (4) The chairperson's name and address and, if appointed,
13 the deputy chairperson's name and address;
- 14 (5) The treasurer's name and address and, if appointed,
15 all deputy treasurers' names and addresses;
- 16 (6) The name and address of each depository institution in
17 which the committee will maintain any of its accounts
18 and the applicable account number; and
- 19 (7) A certification by the candidate and treasurer of the
20 statements in the organizational report.



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1 (b) Any change in information previously reported in the
2 organizational report shall be electronically filed with the
3 commission within ten days of the change being brought to the
4 attention of the committee chairperson or treasurer.

5 (c) The commission shall publish on its website the names
6 of all candidate committees who have failed to:

7 (1) File the organizational report; or

8 (2) Correct a report within two weeks from a notice to
9 correct provided by the commission."

10 SECTION 3. Section 11-323, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§11-323 Organizational report, noncandidate committee.**

13 (a) The noncandidate committee organizational report shall
14 include:

15 (1) The committee's name, which shall incorporate the full
16 name of the sponsoring entity, if any. An acronym or
17 abbreviation may be used in other communications if
18 the acronym or abbreviation is commonly known or
19 clearly recognized by the general public. The
20 committee's name shall not include the name of a
21 candidate;



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- 1 (2) The committee's address, including web page address,
2 if any;
- 3 (3) The area, scope, or jurisdiction of the committee;
- 4 (4) The name and address of the committee's sponsoring
5 entity. If the committee does not have a sponsoring
6 entity, the committee shall specify the trade,
7 profession, or primary interest of contributors to the
8 committee;
- 9 (5) The name, address, telephone number, occupation, and
10 principal place of business of the chairperson;
- 11 (6) The name, address, telephone number, occupation, and
12 principal place of business of the treasurer and any
13 other officers;
- 14 (7) An indication as to whether the committee was formed
15 to support or oppose a specific ballot question or
16 candidate and, if so, a brief description of the
17 question or the name of the candidate;
- 18 (8) An indication as to whether the committee is a
19 political party committee;



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- 1 (9) The name, address, telephone number, occupation, and
2 principal place of business of the custodian of the
3 books and accounts;
- 4 (10) The name and address of the depository institution in
5 which the committee will maintain its campaign account
6 and each applicable account number; and
- 7 (11) A certification by the chairperson and treasurer of
8 the statements in the organizational report.
- 9 (b) Any change in information previously reported in the
10 organizational report shall be electronically filed with the
11 commission within ten days of the change being brought to the
12 attention of the committee chairperson or treasurer.
- 13 (c) The commission shall publish on its website the names
14 of all noncandidate committees who have failed to:
- 15 (1) File the organizational report; or
16 (2) Correct a report within two weeks from a notice to
17 correct provided by the commission."

18 SECTION 4. New statutory material is underscored.

19 SECTION 5 This Act shall take effect upon its approval.

20

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Candidate Committees; Noncandidate Committees; Organizational Reports

Description:

Requires the campaign spending commission to publish on its website the names of candidate committees and noncandidate committees who fail to properly file an organizational report.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO FALSE CLAIMS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.

10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Accordingly, the purpose of this Act is to implement
10 recommendations of the commission to improve standards of
11 conduct relating to combatting fraud, waste, and corruption by:

- 12 (1) Establishing the offense of making a false, frivolous,
13 or fraudulent claim against the State or a county; and
14 (2) Disqualifying a person from holding elected public
15 office for a period of ten years upon conviction of
16 making such false, frivolous, or fraudulent claim.

17 This statute is patterned after the federal false claims
18 statute, 18 United States Code section 287, and therefore, the
19 State of Hawaii courts and counsel should look to federal case
20 law and precedent for direction.



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1 SECTION 2. Chapter 710, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§710- **False, fictitious, or fraudulent claims.** (1) A
5 person commits the offense of making a false, fictitious, or
6 fraudulent claim against the State or a county if the person
7 makes or presents to any agent of the State, any of the
8 counties, or any department or agency thereof, any claim upon or
9 against the State, a county, or any department or agency
10 thereof, that the person knows to be false, fictitious, or
11 fraudulent.

12 (2) Application of this section shall be based on title 18
13 United States Code section 287 and any relevant federal case law
14 and precedent.

15 (3) Any person charged under this section shall not be
16 eligible for a deferred acceptance of guilty plea or nolo
17 contendere plea under chapter 853.

18 (4) Making a false, fictitious, or fraudulent claim
19 against the State or a county is a class C felony."

20 SECTION 3. Section 11-412, Hawaii Revised Statutes, is
21 amended by amending subsection (d) to read as follows:



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1 "(d) A person who is convicted under this section, or for
2 making a false, fictitious, or fraudulent claim under section
3 710- , shall be disqualified from holding elective public
4 office for a period of ten years from the date of conviction."

5 SECTION 4. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 5. New statutory material is underscored.

9 SECTION 6. This Act shall take effect upon its approval.

10

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; False, Fictitious, or Fraudulent Claims; State; Counties; Penalties; Disqualification; Elective Public Office; Conviction

Description:

Makes it a class C felony to make false, fictitious, or fraudulent claims against the State or a county, or any of their departments or agencies. Disqualifies a person from holding elective public office for a period of ten years upon conviction of making a false, fictitious, or fraudulent claim.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO GOVERNMENT.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.

10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the Commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Accordingly, the purpose of this Act is to implement
10 recommendations of the commission to improve standards of
11 conduct relating to using or making false statements or entries
12 in matters within the jurisdiction of the executive,
13 legislative, or judicial branch of the State, or any county.
14 This Act also disqualifies a person from holding elected public
15 office for a period of ten years upon conviction of making such
16 false statements or entries. This Act is patterned after the
17 federal "false statements" statute, title 18 United States Code
18 section 1001, and therefore, the courts of the State and counsel
19 should look to federal caselaw and precedent for direction.



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1 SECTION 2. Chapter 710, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 **"§710- Using or making false statements or entries;**

5 **generally.** (1) Except as otherwise provided in this section, a
6 person commits the offense of using or making false statements
7 or entries if, in any matter within the jurisdiction of the
8 executive, legislative, or judicial branch of the State, or any
9 county, the person knowingly and wilfully:

10 (a) Falsifies, conceals, or covers up a material fact by
11 any trick, scheme, or device;

12 (b) Makes any materially false, fictitious, or fraudulent
13 statement or representation; or

14 (c) Makes or uses any false writing or document knowing
15 the writing or document contains any materially false,
16 fictitious, or fraudulent statement or entry.

17 (2) Application of this section shall be based on title 18
18 United States Code section 1001 and any relevant federal case
19 law and precedent.

20 (3) Using or making false statements or entries is a class
21 C felony. A person convicted of violating this section shall



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1 not be eligible for a deferred acceptance of guilty plea or nolo
2 contendere plea under chapter 853.

3 (4) Subsection (1) shall not apply to a party to a
4 judicial proceeding, or that party's counsel, for statements,
5 representations, writings, or documents submitted by the party
6 or counsel to a judge or magistrate in that proceeding.

7 (5) With respect to any matter within the jurisdiction of
8 the legislature, subsection (1) shall apply only to:

9 (a) Administrative matters, including:

10 (i) A claim for payment;

11 (ii) A matter related to the procurement of property
12 or services;

13 (iii) Personnel or employment practices;

14 (iv) Support services; or

15 (v) A document required by law, rule, or regulation
16 to be submitted to the legislature or any office
17 or officer within the legislature; or

18 (b) Any investigation or review conducted pursuant to the
19 authority of any committee, subcommittee, commission,
20 or office of the legislature, consistent with



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1 applicable rules of the senate or house of
2 representatives."

3 SECTION 3. Section 11-412, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) A person who is convicted under this section, or for
6 using or making a false statement or entry under section
7 710- , shall be disqualified from holding elective public
8 office for a period of ten years from the date of conviction."

9 SECTION 4. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 5. New statutory material is underscored.

13 SECTION 6. This Act shall take effect upon its approval.

14

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Penal Code; False Statements or Entries; Executive, Legislative, and Judicial Branches; Counties; Disqualification; Elective Public Office; Conviction

Description:

Establishes the class C felony offense of using or making false statements or entries in matters within the jurisdiction of the executive, legislative, or judicial branch of the State, or any county. Disqualifies a person from holding elective public office for a period of ten years upon conviction of making a false statement or entry.

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HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO FRAUD.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.
10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Accordingly, the purpose of this Act is to implement
10 recommendations of the commission to improve standards of
11 conduct relating to combatting fraud by:

12 (1) Establishing a general fraud statute which is intended
13 to cover schemes to obtain financial or other gain by
14 means of false statements, misrepresentations,
15 concealment of important information, or deception;
16 and

17 (2) Disqualifying a person from holding elected public
18 office for a period of ten years upon conviction of
19 fraud.

20 The Act is modeled after the following federal general fraud
21 statutes:



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- 1 (1) Title 18 United States Code section 1341 (mail fraud);
2 (2) Title 18 United States Code section 1343 (wire fraud);
3 (3) Title 18 United States Code section 1346 (definition
4 of "scheme or artifice to defraud"); and
5 (4) Title 18 United States Code section 1344 (bank fraud).

6 Therefore, in application of this Act, State courts and counsel
7 should look to federal caselaw and precedent for direction. It
8 should be noted that the references in the federal statutes to
9 "mail" and "wire" are merely the jurisdictional "hooks" for
10 federal jurisdiction.

11 SECTION 2. Chapter 708, Hawaii Revised Statutes, is
12 amended by adding a new section to part IV to be appropriately
13 designated and to read as follows:

14 "§708- Fraud. (1) A person commits the offense of
15 fraud if, with the intent to defraud, the person executes or
16 attempts to execute any scheme or artifice to defraud or to
17 obtain money or property by means of false or fraudulent
18 pretenses, representations, or promises.

19 (2) Application of this section shall be based on:

20 (A) Title 18 United States Code section 1341;

21 (B) Title 18 United States Code section 1343;



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1 (C) Title 18 United States Code section 1346; and

2 (D) Title 18 United States Code section 1344;

3 and any relevant federal case law and precedent.

4 (3) For the purposes of this section "scheme or artifice
5 to defraud" includes a scheme or artifice to deprive another of
6 the intangible right of honest services.

7 (4) Fraud is a class B felony and a person convicted under
8 this section shall be sentenced with a mandatory minimum term of
9 imprisonment of one year, without the possibility of probation."

10 SECTION 3. Section 11-412, Hawaii Revised Statutes, is
11 amended by amending subsection (d) to read as follows:

12 "(d) A person who is convicted under this section, or for
13 fraud under section 708- , shall be disqualified from holding
14 elective public office for a period of ten years from the date
15 of conviction."

16 SECTION 4. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 5. New statutory material is underscored.

20

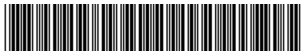


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1 SECTION 6. This Act shall take effect upon its approval.

2

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Fraud;
Disqualification; Elective Public Office; Conviction

Description:

Establishes the offense of fraud as a class B felony.
Disqualifies a person from holding elective public office for a
period of ten years upon conviction of fraud.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO CANDIDATE COMMITTEE AND NONCANDIDATE COMMITTEE
FUNDRAISERS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.

10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and



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1 invited individuals and agencies to issue a final report with
2 various recommendations and accompanying proposed legislation.

3 The legislature also finds that the strength and stability
4 of our democratic government rely upon the public's trust in
5 government institutions, including the expectation that officers
6 act ethically with prudence, integrity, and sound judgement.
7 Therefore, an essential goal of the commission was to provide
8 recommendations that would help restore public trust in state
9 government and increase the level of transparency in its
10 operations and accountability of individuals.

11 Accordingly, the purpose of this Act is to implement
12 recommendations of the commission to improve standards of
13 conduct in furthering public transparency and improving public
14 confidence in campaign financing by amending what constitutes a
15 fundraiser under Hawaii's election law and thereby requiring a
16 notice of intent to hold a fundraiser regardless of the price or
17 suggested contribution for attending the function.

18 SECTION 2. Section 11-342, Hawaii Revised Statutes, is
19 amended by amending subsection (d) to read as follows:

20 "(d) As used in this section:



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1 "Elected official" means an individual who currently holds
2 an elected state or county office, including the governor,
3 lieutenant governor, state senator, state representative,
4 trustee of the office of Hawaiian affairs, county mayor, county
5 council member, county prosecuting attorney, and any individual
6 appointed to serve in any of the aforementioned offices.

7 "Fundraiser" means any function held for the benefit of a
8 candidate, candidate committee, or noncandidate committee that
9 is intended or designed, directly or indirectly, to raise
10 contributions for which ~~[the]~~ any price is charged or
11 ~~[suggested]~~ any contribution is suggested for attending the
12 function ~~[is more than \$25 per person]~~.

13 "Fundraiser event" means any function held for the benefit
14 of an elected official that is intended or designed, directly or
15 indirectly, to raise contributions for which any price is
16 charged or any contribution is suggested for attending the
17 function."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20



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1 SECTION 4 This Act shall take effect on July 1, 2023.

2

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Campaign Fundraising; Fundraiser

Description:

Amends the definition of "fundraiser" under the election law relating to the notice of intent for fundraisers and fundraising events.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO CAMPAIGN CONTRIBUTIONS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.

10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 The legislature additionally finds that under Hawaii's
10 existing campaign finance law, only a state or county contractor
11 is prohibited from making campaign contributions. However,
12 owners, officers, employees, and family members of the
13 contractor can still make contributions, including false name
14 contributions, to election campaigns. Furthermore, state and
15 county grantees are currently able to make campaign
16 contributions, even though these entities receive funds that
17 have been appropriated by a legislative body, similar to state
18 or county contractors.

19 Accordingly, the purpose of this Act is to implement
20 recommendations of the commission to improve standards of
21 conduct by amending the prohibition against contributions to a



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1 candidate committee or noncandidate committee by state and
2 county contractors to include state and county grantees and the
3 owners, officers, and immediate family members of a state or
4 county contractor or state or county grantee.

5 SECTION 2. Section 11-355, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§11-355[+] **Contributions by state and county**

8 **contractors; contributions by state and county grantees;**

9 **prohibited.** (a) It shall be unlawful for any person who enters
10 into any contract with the State, any of the counties, or any
11 department or agency thereof either for the rendition of
12 personal services, the buying of property, or furnishing of any
13 material, supplies, or equipment to the State, any of the
14 counties, any department or agency thereof, or for selling any
15 land or building to the State, any of the counties, or any
16 department or agency thereof, if payment for the performance of
17 the contract or payment for material, supplies, equipment, land,
18 property, or building is to be made in whole or in part from
19 funds appropriated by the legislative body, at any time between
20 the execution of the contract through the completion of the
21 contract, to:



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1 (1) Directly or indirectly make any contribution, or
 2 promise expressly or impliedly to make any
 3 contribution to any candidate committee or
 4 noncandidate committee, or to any candidate or [~~to~~]
 5 any person for any political purpose or use; or

6 (2) Knowingly solicit any contribution from any person for
 7 any purpose during any period.

8 (b) It shall be unlawful for any person who receives a
 9 grant or subsidy from the State pursuant to chapter 42F, or from
 10 a county pursuant to county charter or code, at any time between
 11 the execution of the contract for the grant or subsidy through
 12 the completion of the contract, to:

13 (1) Directly or indirectly make any contribution, or
 14 promise expressly or impliedly to make any
 15 contribution to any candidate committee or
 16 noncandidate committee, or to any candidate or any
 17 person for any political purpose or use; or

18 (2) Knowingly solicit any contribution from any person for
 19 any purpose during any period.

20 (c) It shall be unlawful for the owners, officers, and any
 21 immediate family members of any state or county contractor under



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1 subsection (a), at any time between the execution of a contract
2 through completion of the contract pursuant to subsection (a),
3 to directly or indirectly make any contribution to any candidate
4 committee or noncandidate committee.

5 (d) It shall be unlawful for the owners, officers, and any
6 immediate family members of any state or county grantee under
7 subsection (b), at any time between the execution of a contract
8 through completion of the contract pursuant to subsection (b),
9 to directly or indirectly make any contribution to any candidate
10 committee or noncandidate committee.

11 ~~[(b)]~~ (e) Except as provided in ~~[subsection]~~ subsections
12 (a), (b), (c), and (d), this section does not prohibit or make
13 unlawful the establishment or administration of, or the
14 solicitation of contributions to, any noncandidate committee by
15 any person other than the state or county contractor, the state
16 or county grantee, or the owners, officers, and immediate family
17 members of a state or county contractor or state or county
18 grantee, for the purpose of influencing the nomination for
19 election, or the election of any person to office.

20 ~~[(e)]~~ (f) For purposes of this section, "completion of the
21 contract" means that the parties to the government contract have



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1 either terminated the contract prior to completion of
2 performance or fully performed the duties and obligations under
3 the contract, no disputes relating to the performance and
4 payment remain under the contract, and all disputed claims have
5 been adjudicated and are final."

6 SECTION 3. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act shall take effect upon its approval.

9

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; State and County Contractors; State and County Grantees; Campaign Contributions; Prohibitions

Description:

Amends the prohibition against contributions to a candidate committee or noncandidate committee by state and county contractors to include state and county grantees and the owners, officers, and immediate family members of a state or county contractor or state or county grantee.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO LEGISLATIVE ALLOWANCE.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9, Regular Session
3 of 2022, to establish the commission to improve standards of
4 conduct. The resolution requests the commission ensure state
5 laws and rules relating to standards of conduct of public
6 officers and employees contain clear standards, enforcement, and
7 penalties and provide recommendations to increase awareness of,
8 compliance with, and deterrent effects of the code of ethics,
9 lobbying laws, campaign finance laws, and other relevant laws
10 and rules.

11 Pursuant to House Resolution No. 9, the commission to
12 improve standards of conduct convened regularly throughout 2022
13 to diligently review, discuss, and consider the issues
14 presented, submitted an interim report to the house of
15 representatives outlining areas of immediate and long-term
16 focus, then continued its work with input from the public and



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1 invited individuals and agencies to issue a final report with
2 various recommendations and accompanying proposed legislation.

3 The legislature also finds that the strength and stability
4 of our democratic government rely upon the public's trust in
5 government institutions, including the expectation that officers
6 act ethically with prudence, integrity, and sound judgement.
7 Therefore, an essential goal of the commission was to provide
8 recommendations that would help restore public trust in state
9 government and increase the level of transparency in its
10 operations and accountability of individuals.

11 Accordingly, the purpose of this Act is to implement
12 recommendations of the commission to improve standards of
13 conduct by requiring each house of the legislature to post a
14 report of the legislative allowance expenditures for each member
15 of the respective house on the legislature's website.

16 SECTION 2. Section 24-1, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§24-1 Allowance for incidental expenses.** (a) Each
19 member of the legislature shall receive an annual allowance of
20 \$7,500, which amount is to cover incidental expenses connected
21 with legislative duties and the amount shall be payable in a



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1 manner prescribed by the respective rules of each house;
2 provided that when the legislative salary is increased, the
3 legislative allowance shall be increased by the same percentage.

4 (b) Each house of the legislature shall post on the
5 legislature's website, on a rolling basis and in a manner
6 prescribed by the respective rules of each house, a report of
7 the legislative allowance expenditures for each member of the
8 respective house."

9 SECTION 3. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon its approval.

11

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Legislative Allowance; Expenditure Report

Description:

Requires each house of the legislature to post a report of the legislative allowance expenditures for each member of the respective house on the legislature's website.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



A BILL FOR AN ACT

RELATING TO FINANCIAL DISCLOSURES.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.

10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



H.B. NO.

1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the Commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Accordingly, the purpose of this Act is to implement
10 recommendations of the commission to improve standards of
11 conduct by requiring all members of the legislature to disclose
12 certain relationships with lobbyists or lobbying organizations
13 in their financial disclosures.

14 SECTION 2. Section 84-17, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§84-17 Requirements of disclosure.** (a) For the purposes
17 of this section, "disclosure period" refers to the period from
18 January 1 of the preceding calendar year to the time of the
19 filing of the employee's or legislator's disclosure of financial
20 interests.



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1 (b) The disclosure of financial interest required by this
2 section shall be filed:

3 (1) By any person enumerated in subsection (c), except a
4 member of the legislature, between January 1 and May
5 31 of each year;

6 (2) By a member of the legislature between January 1 and
7 January 31 of each year;

8 (3) Within thirty days of a person's election or
9 appointment to a state position enumerated in
10 subsection (c); or

11 (4) Within thirty days of separation from a state position
12 if a prior financial disclosure statement for the
13 position was not filed within the one hundred eighty
14 days preceding the date of separation;

15 provided that candidates for state elective offices or the
16 constitutional convention shall file the required statements no
17 later than twenty days prior to the date of the primary election
18 for state offices or the election of delegates to the
19 constitutional convention.

20 (c) The following persons shall file annually with the
21 state ethics commission a disclosure of financial interests:



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- 1 (1) The governor, the lieutenant governor, the members of
2 the legislature, and delegates to the constitutional
3 convention; provided that delegates to the
4 constitutional convention shall only be required to
5 file initial disclosures;
- 6 (2) The directors and their deputies, the division chiefs,
7 the executive directors and the executive secretaries
8 and their deputies, the purchasing agents and the
9 fiscal officers, regardless of the titles by which the
10 foregoing persons are designated, of every state
11 agency and department;
- 12 (3) The permanent employees of the legislature and its
13 service agencies, other than persons employed in
14 clerical, secretarial, or similar positions;
- 15 (4) The administrative director of the State, and the
16 assistants in the office of the governor and the
17 lieutenant governor, other than persons employed in
18 clerical, secretarial, or similar positions;
- 19 (5) The hearings officers of every state agency and
20 department;



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- 1 (6) The president, the vice presidents, assistant vice
2 presidents, the chancellors, and the provosts of the
3 University of Hawaii and its community colleges;
- 4 (7) The superintendent, the deputy superintendent, the
5 assistant superintendents, the complex area
6 superintendents, the state librarian, and the deputy
7 state librarian of the department of education;
- 8 (8) The administrative director and the deputy director of
9 the courts;
- 10 (9) The members of every state board or commission whose
11 original terms of office are for periods exceeding one
12 year and whose functions are not solely advisory;
- 13 (10) Candidates for state elective offices, including
14 candidates for election to the constitutional
15 convention, provided that candidates shall only be
16 required to file initial disclosures;
- 17 (11) The administrator and assistant administrator of the
18 office of Hawaiian affairs;
- 19 (12) The Hawaii unmanned aerial systems test site chief
20 operating officer[+];[+] and



H.B. NO.

1 (13) The members of the school facilities board appointed
2 by the governor.

3 (d) The financial disclosure statements of the following
4 persons shall be public records and available for inspection and
5 duplication:

6 (1) The governor, the lieutenant governor, the members of
7 the legislature, candidates for and delegates to the
8 constitutional convention, the trustees of the office
9 of Hawaiian affairs, and candidates for state elective
10 offices;

11 (2) The directors of the state departments and their
12 deputies, regardless of the titles by which the
13 foregoing persons are designated; provided that with
14 respect to the department of the attorney general, the
15 foregoing shall apply only to the attorney general and
16 the first deputy attorney general;

17 (3) The administrative director of the State;

18 (4) The president, the vice presidents, the assistant vice
19 presidents, the chancellors, members of the board of
20 regents, and the provosts of the University of Hawaii;



H.B. NO.

- 1 (5) The members of the board of education and the
- 2 superintendent, the deputy superintendent, the state
- 3 librarian, and the deputy state librarian of the
- 4 department of education;
- 5 (6) The administrative director and the deputy director of
- 6 the courts;
- 7 (7) The administrator and the assistant administrator of
- 8 the office of Hawaiian affairs; and
- 9 (8) The members of the following state boards,
- 10 commissions, and agencies:
- 11 (A) The board of directors of the agribusiness
- 12 development corporation established under section
- 13 163D-3;
- 14 (B) The board of agriculture established under
- 15 section 26-16;
- 16 (C) The state ethics commission established under
- 17 section 84-21;
- 18 (D) The Hawaii community development authority
- 19 established under section 206E-3;



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- 1 (E) The Hawaiian homes commission established under
2 the Hawaiian Homes Commission Act of 1920, as
3 amended, and section 26-17;
- 4 (F) The board of directors of the Hawaii housing
5 finance and development corporation established
6 under section 201H-3;
- 7 (G) The board of land and natural resources
8 established under section 171-4;
- 9 (H) The state land use commission established under
10 section 205-1;
- 11 (I) The legacy land conservation commission
12 established under section 173A-2.4;
- 13 (J) The natural area reserves system commission
14 established under section 195-6;
- 15 (K) The board of directors of the natural energy
16 laboratory of Hawaii authority established under
17 section 227D-2;
- 18 (L) The board of directors of the Hawaii public
19 housing authority established under section
20 356D-3;



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1 (M) The public utilities commission established under
2 section 269-2;

3 (N) The commission on water resource management
4 established under section 174C-7; and

5 (O) The stadium authority established under section
6 109-1.

7 (e) The information on the financial disclosure statements
8 shall be confidential, except as provided in subsection (d).
9 The commission shall not release the contents of the disclosures
10 except as may be permitted pursuant to this chapter. Any person
11 who releases any confidential information shall be subject to
12 section 84-31(c).

13 (f) Candidates for state elective offices, including
14 candidates for election to the constitutional convention, shall
15 only be required to disclose their own financial interests. The
16 disclosures of financial interests of all other persons
17 designated in subsection (c) shall state, in addition to the
18 financial interests of the person disclosing, the financial
19 interests of the person's spouse and dependent children. All
20 disclosures shall include:



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- 1 (1) The source and amount of all income of \$1,000 or more
2 received, for services rendered, by the person in the
3 person's own name or by any other person for the
4 person's use or benefit during the preceding calendar
5 year and the nature of the services rendered; provided
6 that required disclosure under this paragraph for the
7 income source of the spouse or dependent child of a
8 person subject to subsection (d) shall be limited to
9 the name of the business or other qualifying source of
10 income, and need not include the income source's
11 address; provided further that other information that
12 may be privileged by law or individual items of
13 compensation that constitute a portion of the gross
14 income of the business or profession from which the
15 person derives income need not be disclosed;
- 16 (2) The amount and identity of every ownership or
17 beneficial interest held during the disclosure period
18 in any business having a value of \$5,000 or more or
19 equal to ten per cent of the ownership of the business
20 and, if the interest was transferred during the
21 disclosure period, the date of the transfer; provided



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1 that an interest in the form of an account in a
2 federal or state regulated financial institution, an
3 interest in the form of a policy in a mutual insurance
4 company, or individual items in a mutual fund or a
5 blind trust, if the mutual fund or blind trust has
6 been disclosed pursuant to this paragraph, need not be
7 disclosed;

8 (3) Every officership, directorship, trusteeship, or other
9 fiduciary relationship held in a business during the
10 disclosure period, the term of office and the annual
11 compensation;

12 (4) The name of each creditor to whom the value of \$3,000
13 or more was owed during the disclosure period and the
14 original amount and amount outstanding; provided that
15 debts arising out of retail installment transactions
16 for the purchase of consumer goods need not be
17 disclosed;

18 (5) The street address and, if available, the tax map key
19 number, and the value of any real property in which
20 the person holds an interest whose value is \$10,000 or
21 more, and, if the interest was transferred or obtained



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1 during the disclosure period, a statement of the
2 amount and nature of the consideration received or
3 paid in exchange for such interest, and the name of
4 the person furnishing or receiving the consideration;
5 provided that disclosure shall not be required of the
6 street address and tax map key number of the person's
7 residence;

8 (6) The names of clients assisted or represented before
9 state agencies, except in ministerial matters, for a
10 fee or compensation during the disclosure period and
11 the names of the state agencies involved; and

12 (7) The amount and identity of every creditor interest in
13 an insolvent business held during the disclosure
14 period having a value of \$5,000 or more.

15 (g) In addition to the disclosures required under
16 subsection (f), each member of the legislature shall also
17 disclose the name of any person that is subject to section 97-3
18 and that is:

19 (1) A business partner of the member;

20 (2) An employer of the member;

21 (3) An officer or director of the member's employer; or



H.B. NO.

1 (4) A client of the member, member's partner, or member's
2 employer, where the client provided at least \$5,000 of
3 income during the preceding calendar year.

4 As used in this subsection:

5 "Member" means a member of the legislature.

6 "Member's partner" means a member's spouse under chapter
7 572, civil union partner under chapter 572B, or reciprocal
8 beneficiary under chapter 572C.

9 [~~(g)~~] (h) Where an amount is required to be reported, the
10 person disclosing may indicate whether the amount is at least
11 \$1,000 but less than \$10,000; at least \$10,000 but less than
12 \$25,000; at least \$25,000 but less than \$50,000; at least
13 \$50,000 but less than \$100,000; at least \$100,000 but less than
14 \$150,000; at least \$150,000 but less than \$250,000; at least
15 \$250,000 but less than \$500,000; at least \$500,000 but less than
16 \$750,000; at least \$750,000 but less than \$1,000,000; or
17 \$1,000,000 or more. An amount of stock may be reported by
18 number of shares.

19 [~~(h)~~] (i) The state ethics commission shall provide a
20 method for filing financial disclosure statements. The



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1 commission may require that financial disclosure statements be
2 filed electronically.

3 [~~(i)~~] (j) Failure of a legislator, a delegate to the
4 constitutional convention, or employee to file a disclosure of
5 financial interests as required by this section shall be a
6 violation of this chapter. Any legislator, delegate to a
7 constitutional convention, or employee who fails to file a
8 disclosure of financial interests when due shall be assessed an
9 administrative fine of \$75. The state ethics commission, upon
10 the expiration of the time allowed for filing, may post on its
11 website for public inspection a list of all persons who have
12 failed to file financial disclosure statements. The state
13 ethics commission shall notify a person, by in-person service,
14 electronic mail to the person's state electronic mail address,
15 or first class mail, of the failure to file, and the disclosure
16 of financial interests shall be submitted to the state ethics
17 commission not later than 4:30 p.m. on the tenth day after
18 notification of the failure to file has been mailed to the
19 person. If a disclosure of financial interests has not been
20 filed within ten days of the due date, an additional
21 administrative fine of \$10 for each day a disclosure remains



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1 unfiled shall be added to the administrative fine. All
2 administrative fines collected under this section shall be
3 deposited in the State's general fund. Any administrative fine
4 for late filing shall be in addition to any other action the
5 state ethics commission may take under this chapter for
6 violations of the state ethics code. The state ethics
7 commission may waive any administrative fines assessed under
8 this subsection for good cause shown.

9 [~~(j)~~] (k) The chief election officer, upon receipt of the
10 nomination paper of any person seeking a state elective office,
11 including the office of delegate to the constitutional
12 convention, shall notify the state ethics commission of the name
13 of the candidate for state office and the date on which the
14 person filed the nomination paper. The state ethics commission,
15 upon the expiration of the time allowed for filing, shall
16 release to the public a list of all candidates who have failed
17 to file financial disclosure statements and shall immediately
18 assess a late filing penalty fee against those candidates of
19 \$50, which shall be collected by the state ethics commission and
20 deposited into the general fund. The state ethics commission
21 may investigate, initiate, or receive charges as to whether a



H.B. NO.

1 candidate's financial disclosure statement discloses the
2 financial interests required to be disclosed. After proceeding
3 in conformance with section 84-31, the state ethics commission
4 may issue a decision as to whether a candidate has complied with
5 section 84-17(f) and this decision shall be a matter of public
6 record."

7 SECTION 3. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

13

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Financial Disclosure; Legislators; Lobbyists

Description:

Requires all members of the legislature to disclose certain relationships with lobbyists or lobbying organizations in their financial disclosures.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO LOBBYISTS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.

10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



H.B. NO.

1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Accordingly, the purpose of this Act is to implement
10 recommendations of the commission to improve standards of
11 conduct by amending the information contained in the statement
12 of expenditures reports that lobbyists and other individuals are
13 required to file with the Hawaii state ethics commission.

14 SECTION 2. Section 97-3, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) The statement shall contain the following
17 information:

18 (1) The name and address of each person with respect to
19 whom expenditures for the purpose of lobbying in the
20 total sum of \$25 or more per day was made by the



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- 1 person filing the statement during the statement
2 period and the amount or value of the expenditure;
- 3 (2) The name and address of each person with respect to
4 whom expenditures for the purpose of lobbying in the
5 aggregate of \$150 or more was made by the person
6 filing the statement during the statement period and
7 the amount or value of the expenditures;
- 8 (3) The total sum or value of all expenditures for the
9 purpose of lobbying made by the person filing the
10 statement during the statement period; provided that
11 the sum or value of each expenditure is itemized in
12 the following categories, as applicable:
- 13 (A) Preparation and distribution of lobbying
14 materials;
- 15 (B) Media advertising;
- 16 (C) Compensation paid to lobbyists;
- 17 (D) Fees paid to consultants for services;
- 18 (E) Entertainment and events;
- 19 (F) Receptions, meals, food, and beverages;
- 20 (G) Gifts;
- 21 (H) Loans;



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- 1 (I) Interstate transportation, including incidental
2 meals and lodging; and
3 (J) Other disbursements;
- 4 (4) The name and address of each person making
5 contributions to the person filing the statement for
6 the purpose of lobbying in the total sum of \$25 or
7 more during the statement period and the amount or
8 value of the contributions; and
- 9 (5) The [~~subject area~~] identity, by bill number,
10 resolution number, and if applicable, budget cost or
11 program identification number, or other similar
12 identifier, of the legislative [~~and~~] or administrative
13 action that was commented on, supported by, or opposed
14 by the person filing the statement during the
15 statement period."

16 SECTION 3 Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.



H.B. NO.

1 SECTION 4. This Act shall take effect upon its approval.

2

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Lobbyists;
Disclosure; Statement of Expenditures; Reporting; Hawaii State
Ethics Commission

Description:

Amends the information in the statement of expenditures reports that lobbyists and other individuals are required to file with the Hawaii state ethics commission to include the identity, by bill number, resolution number, or other similar identifier, of the legislative or administrative action that was commented on, supported by, or opposed by the person filing the statement.

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HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO MANDATORY LOBBYIST TRAINING.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.
10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.

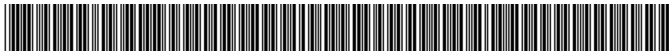


H.B. NO.

1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 The legislature further finds that requiring all lobbyists
10 to be educated on the state lobbyist law and state ethics code
11 is in the best interests of the State. Regular training by the
12 state ethics commission will ensure that all persons engaged in
13 lobbying activities are aware of current state lobbying and
14 ethics laws, which will increase the public's confidence in
15 state government.

16 Accordingly, the purpose of this Act is to implement
17 recommendations of the commission to improve standards of
18 conduct by establishing a lobbyist training course to be
19 designed and administered by the state ethics commission and
20 making lobbyist training mandatory for all lobbyists who are
21 required to register under chapter 97, Hawaii Revised Statutes.



H.B. NO.

1 SECTION 2. Chapter 97, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

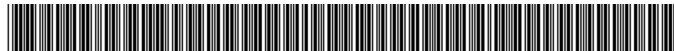
4 "§97- Mandatory lobbyist training. (a) A lobbyist who
5 has not yet registered with the state ethics commission shall
6 complete a lobbyist training course administered by the state
7 ethics commission before registering as a lobbyist with the
8 state ethics commission.

9 (b) Registered lobbyists shall repeat the lobbyist
10 training course required by this section at least once every two
11 years.

12 (c) A lobbyist shall certify completion of the lobbyist
13 training course at the time of registering or renewing
14 registration and shall maintain all certificates or other
15 documentation of completion for a period of six years from the
16 date of registration or renewal.

17 (d) For good cause shown, the state ethics commission may
18 grant a lobbyist an extension of time to complete the training
19 course required by this section.

20 (e) The state ethics commission shall develop and conduct
21 online and live training courses that explain state lobbyist



H.B. NO.

1 laws under this chapter and relevant ethics laws under chapter
2 84. Live training courses may be conducted in person or via
3 videoconference as necessary to accommodate all persons who are
4 required to complete the course."

5 SECTION 3. Section 97-2, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) Each lobbyist shall provide and certify the following
8 information:

- 9 (1) The name, mailing address, and business telephone
10 number of the lobbyist[-];
11 (2) The name and principal place of business of each
12 person by whom the lobbyist is retained or employed or
13 on whose behalf the lobbyist appears or works and a
14 written authorization to act as a lobbyist from each
15 person by whom the lobbyist is employed or with whom
16 the lobbyist contracts[-];
17 (3) The subject areas on which the lobbyist expects to
18 lobby[-]; and
19 (4) The completion of the mandatory lobbyist training
20 course pursuant to section 97- ."



H.B. NO.

1 SECTION 4. Section 97-7, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Any person who:

4 (1) Negligently fails to file any statement or report
5 required by this chapter;

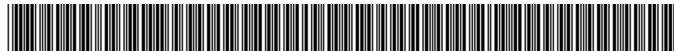
6 (2) Negligently files a statement or report containing
7 false information or material omission of any fact;

8 (3) Engages in activities prohibited by section 97-5; or

9 (4) Fails to provide information required by section 97-2,
10 including certification of completion of the mandatory
11 lobbyist training course, or 97-3;

12 shall be subject to an administrative fine imposed by the state
13 ethics commission that shall not exceed \$1,000 for each
14 violation of this chapter. All fines collected under this
15 section shall be deposited into the general fund."

16 SECTION 5. In the absence of good cause shown, each
17 lobbyist who is registered with the state ethics commission as
18 of the effective date of this Act shall complete the lobbyist
19 training course required by section 97- , Hawaii Revised
20 Statutes, within six months following the effective date of this



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1 Act and at least once every two years following completion of
2 the previous lobbyist training course.

3 SECTION 6. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on July 1, 2024.

6

INTRODUCED BY: _____



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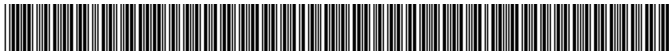
Report Title:

Commission to Improve Standards of Conduct; State Ethics Commission; Mandatory Lobbyist Training; Administrative Fine

Description:

Requires a lobbyist training course to be designed and administered by the state ethics commission. Makes the lobbyist training course mandatory for all lobbyists who are required to register and renew their registration with the state ethics commission. Imposes administrative fines for violations. Effective 7/1/2024.

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HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO NEPOTISM.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.
10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



H.B. NO.

1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Accordingly, the purpose of this Act is to implement
10 recommendations of the commission to improve standards of
11 conduct relating to nepotism and promote good government by
12 prospectively prohibiting legislators and certain state
13 employees from hiring, contracting with, or taking official
14 action affecting their relatives or household members.

15 SECTION 2. Chapter 84, Hawaii Revised Statutes, is amended
16 by adding a new section to be appropriately designated and to
17 read as follows:

18 "§84- Nepotism; prohibition. (a) Beginning July 1,
19 2023, no legislator or employee shall:



H.B. NO.

- 1 (1) Appoint, hire, or promote a relative or household
2 member to, or demote, discharge, or terminate a
3 relative or household member from; or
- 4 (2) Participate in an interview or discussion regarding
5 the appointment, hiring, or promotion of a relative or
6 household member to, or the demotion, discharge, or
7 termination of a relative or household member from,
8 a paid position in the legislator's or employee's employing
9 agency; provided that this subsection shall not prohibit a
10 legislator or employee from performing ministerial acts that may
11 impact the relative or household member if those acts are a part
12 of the normal job functions of the legislator or employee.
- 13 (b) Beginning July 1, 2023, no legislator or employee
14 shall supervise a relative or household member unless:
- 15 (1) The legislator or employee has a physical impairment
16 requiring the employment of a particular relative or
17 household member; provided that the legislator or
18 employee discloses the prospective employment to the
19 state ethics commission before the appointment or hire
20 is made; or



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1 (2) The legislator or employee disqualifies the
2 legislator's or employee's self from taking any
3 official action directly affecting the relative or
4 household member.

5 (c) No legislator or employee shall award a contract to or
6 otherwise take official action on a contract with a business if
7 the legislator or employee knows or reasonably should know that
8 the legislator's or employee's relative or household member is
9 an executive officer of or holds a substantial ownership
10 interest in that business.

11 (d) Notwithstanding the prohibitions in this section, if
12 an employee who is a supervisor or executive director is unable
13 to waive or disengage from completing their official duties or
14 from taking official action and is legally required to take
15 action that directly impacts a relative or household member
16 receiving an award or other official action on a contract
17 described in subsection (c), the employee shall not be in
18 violation of this section if the employee:

19 (1) Has complied with the disclosure requirements of
20 section 84-17; and



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1 (2) Posts a notice of intent to award the contract and
2 files a copy of the notice with the state ethics
3 commission at least five days before awarding the
4 contract. If the posting and filing of the award in
5 advance is otherwise prohibited by law, notice shall
6 be posted and filed as soon as practicable. Every
7 notice of intent shall describe the employee's
8 relationship with the relative or household member,
9 the relative or household member's relationship with
10 the entity receiving the contract, action taken and to
11 be taken affecting the relative or household member's
12 business, and the dollar value of the contract.

13 (e) Upon application, the state ethics commission may
14 grant an exception to a legislator, employee, or agency that is
15 unable to comply with this section for good cause, including a
16 demonstrated lack of qualified personnel or applicants.

17 (f) Any legislator or employee who knowingly violates this
18 section shall be subject to the administrative fines set forth
19 in section 84-39. Any favorable action obtained by a relative
20 or household member of a legislator or employee in violation of



H.B. NO.

1 this section is voidable in accordance with sections 84-16 and
2 84-19.

3 (g) This section shall not affect the applicability of
4 section 84-13 or 84-14.

5 (h) This section shall not prohibit a state agency from
6 appointing, hiring, promoting, discharging, firing, or demoting
7 a relative or household member of a legislator or employee
8 employed by the agency.

9 (i) For purposes of this section:

10 "Household member" means an individual who resides in the
11 same dwelling unit as the legislator or employee.

12 "Relative" means the legislator's or employee's parent,
13 grandparent, stepparent, child, grandchild, stepchild, brother,
14 sister, half-brother, half-sister, stepbrother, stepsister,
15 uncle, aunt, first cousin, nephew, niece, spouse, spouse's
16 parent, son-in-law, daughter-in-law, brother-in-law, or sister-
17 in-law."

18 SECTION 3. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date, and does not apply to any



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1 legislator or employee whose employment was terminated before
2 the effective date of this Act.

3 SECTION 4. If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 5. New statutory material is underscored.

10 SECTION 6. This Act shall take effect on July 1, 2023.

11

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Nepotism;
Legislators; State Employees; Administrative Fine

Description:

Beginning 7/1/2023, prohibits under certain circumstances legislators and state employees from hiring or promoting relatives and household members and from making or participating in certain other employment-related decisions and from awarding a contract to or otherwise taking official action on a contract with a business if the legislator's or employee's relative or household member is an executive officer of or holds a substantial ownership interest in that business. Imposes administrative fines for violations.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO PUBLIC RECORDS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.

10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Additionally, the legislature finds that public records
10 laws are a critical mechanism to maintain government
11 accountability and transparency and support citizen involvement
12 in government decision-making. The real-world consequences of
13 restricting access to that information can range from serious to
14 routine but, in all cases, result in a less informed citizenry.
15 Fee waivers offer a simple and flexible solution.

16 The legislature also finds that further direction is
17 necessary to carry out the intent indicated by the legislative
18 history of section 92F-42, Hawaii Revised Statutes, and the
19 section's provision on waiver of fees, first introduced in House
20 Bill No. 2002, regular session of 1988. The original language
21 of House Bill No. 2002 only authorized fees for copies of



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1 records, but the version passing out of the house of
2 representatives judiciary committee amended the bill to also
3 allow charges for searching, reviewing, and segregating records,
4 while also allowing waivers for public interest. The house
5 judiciary committee report, House Standing Committee Report No.
6 342-88, states:

7 It is the intent of your Committee that such charges
8 for search, compilation, and segregation shall not be
9 a vehicle to prohibit access to public records. It is
10 the further intent of your Committee that the Office
11 of Information Practices move aggressively against any
12 agency that uses such charges to chill the exercise of
13 first amendment rights. Your Committee also added new
14 language to allow waiver of these charges when such
15 action serves the public interest.

16 By providing public-interest fee waivers uniformly, the public
17 records request process can provide equitable access.

18 The legislature finds that this Act adopts the Freedom of
19 Information Act standard to define waivers in the public
20 interest. The federal standard provides a waiver in limited
21 circumstances based on careful examination of various factors,



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1 including the subject matter of the request and identity of the
2 requestor. Case law under the Freedom of Information Act
3 provides additional guidance in this regard.

4 In addition, the legislature finds that clarification of
5 the standard for waivers in the public interest is not intended
6 to change the deadlines for agency response to a records
7 request. Under existing rules, which are unchanged by this Act,
8 agencies are permitted to provide reasonable and orderly monthly
9 disclosures in responding to voluminous record requests that
10 would require extensive effort by the agency or unreasonably
11 interfere with the agency's performance of other statutory
12 duties. These rules prevent undue burdens on the agency but can
13 delay the public's access to government records. The
14 legislature finds that timely disclosure of information is
15 especially critical when disclosure is in the public interest.
16 As such, for voluminous record requests, agencies and requestors
17 are strongly encouraged to discuss the records that are
18 available, how the records are being searched and reviewed, and
19 any methods to reduce the effort required of the agency and thus
20 delays to the requestor.



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1 Accordingly, the purpose of this Act is to implement
2 recommendations of the commission to improve standards of
3 conduct relating to the open records law by providing more
4 equitable access to government records, including:

- 5 (1) Imposing a cap on charges for the reproduction of
6 certain government records;
- 7 (2) Waiving the cost of duplication of government records
8 provided to requestors in an electronic format;
- 9 (3) Imposing a cap on charges for searching for,
10 reviewing, and segregating records;
- 11 (4) Providing for a waiver of fees when the public
12 interest is served by a record's disclosure; and
- 13 (5) Appropriating funds for two permanent positions within
14 the office of information practices.

15 SECTION 2. Section 92-21, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§92-21 Copies of records; other costs and fees.** Except
18 as otherwise provided by law, a copy of any government record,
19 including any map, plan, diagram, photograph, photostat, or
20 geographic information system digital data file, [~~which~~] that is
21 open to the inspection of the public, shall be furnished to any



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1 person applying for the same by the public officer having charge
2 or control thereof upon the payment of the reasonable cost of
3 reproducing [~~such~~] the copy. Except as provided in section
4 91-2.5, the cost of reproducing any government record, except
5 geographic information system digital data, photographs, maps,
6 audio recordings, digital or electronic records, and other types
7 of physical records, shall not [~~be less than 5~~] exceed 25 cents
8 per page, sheet, or fraction thereof. Reproduction costs shall
9 not be charged for producing documents provided to requesters in
10 an electronic format; provided that the agency maintains those
11 documents in an electronic format; provided further that
12 requesters shall be charged for the agency's provision of
13 documents requested in an electronic format that are not
14 maintained by the agency in an electronic format and must be
15 manually faxed or converted into an electronic format. The cost
16 of reproducing geographic information system digital data,
17 photographs, maps, audio recordings, digital or electronic
18 records, and other types of physical records shall be in
19 accordance with rules adopted by the office of information
20 practices that are applicable to every agency having charge or
21 control of that data. [~~Such~~] The reproduction cost shall



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1 ~~[include but shall not be limited to labor cost for search and~~
 2 ~~actual time for reproducing, material cost, including~~
 3 ~~electricity cost, equipment cost, including rental cost, cost~~
 4 ~~for certification, and other related costs.] represent the~~
 5 reasonable direct cost of making the copies and be limited to
 6 the salary of the operator of the reproduction machinery as well
 7 as the cost of the machinery. All fees shall be paid in by the
 8 public officer receiving or collecting the same to the state
 9 director of finance, the county director of finance, or ~~[to]~~ the
 10 agency or department by which the officer is employed, as
 11 government realizations; provided that fees collected by the
 12 public utilities commission pursuant to this section shall be
 13 deposited in the public utilities commission special fund
 14 established under section 269-33."

15 SECTION 3. Section 92F-42, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 **"§92F-42 Powers and duties of the office of information**
 18 **practices.** The director of the office of information practices:

19 (1) Shall, upon request, review and rule on an agency
 20 denial of access to information or records, or an
 21 agency's granting of access; provided that any review



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1 by the office of information practices shall not be a
2 contested case under chapter 91 and shall be optional
3 and without prejudice to rights of judicial
4 enforcement available under this chapter;

5 (2) Upon request by an agency, shall provide and make
6 public advisory guidelines, opinions, or other
7 information concerning that agency's functions and
8 responsibilities;

9 (3) Upon request by any person, may provide advisory
10 opinions or other information regarding that person's
11 rights and the functions and responsibilities of
12 agencies under this chapter;

13 (4) May conduct inquiries regarding compliance by an
14 agency and investigate possible violations by any
15 agency;

16 (5) May examine the records of any agency for the purpose
17 of paragraphs (4) and (18) and seek to enforce that
18 power in the courts of this State;

19 (6) May recommend disciplinary action to appropriate
20 officers of an agency;



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- 1 (7) Shall report annually to the governor and the state
2 legislature on the activities and findings of the
3 office of information practices, including
4 recommendations for legislative changes;
- 5 (8) Shall receive complaints from and actively solicit the
6 comments of the public regarding the implementation of
7 this chapter;
- 8 (9) Shall review the official acts, records, policies, and
9 procedures of each agency;
- 10 (10) Shall assist agencies in complying with the provisions
11 of this chapter;
- 12 (11) Shall inform the public of the following rights of an
13 individual and the procedures for exercising them:
- 14 (A) The right of access to records pertaining to the
15 individual;
- 16 (B) The right to obtain a copy of records pertaining
17 to the individual;
- 18 (C) The right to know the purposes for which records
19 pertaining to the individual are kept;



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- 1 (D) The right to be informed of the uses and
2 disclosures of records pertaining to the
3 individual;
- 4 (E) The right to correct or amend records pertaining
5 to the individual; and
- 6 (F) The individual's right to place a statement in a
7 record pertaining to that individual;
- 8 (12) Shall adopt rules that set forth an administrative
9 appeals structure [~~which~~] that provides for:
- 10 (A) Agency procedures for processing records
11 requests;
- 12 (B) A direct appeal from the division maintaining the
13 record; and
- 14 (C) Time limits for action by agencies;
- 15 (13) Shall adopt rules that set forth the fees and other
16 charges that may be imposed for searching, reviewing,
17 or segregating disclosable records [~~, as well as to~~
18 ~~provide for a waiver of fees when the public interest~~
19 ~~would be served;]. The rules shall:~~



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- 1 (A) Set forth fees not exceeding \$5 per fifteen
2 minutes or fraction thereof for the search for
3 the record;
- 4 (B) Set forth fees not exceeding \$7.50 per fifteen
5 minutes or fraction thereof for the review and
6 segregation of the record; and
- 7 (C) Provide for a waiver of fees when the public
8 interest would be served by the record's
9 disclosure; provided that the waiver shall
10 require that the search for or review or
11 segregation of records be provided at no charge
12 to the requester if disclosure of the record is
13 in the public interest because the disclosure is
14 likely to contribute significantly to public
15 understanding of the operations or activities of
16 the government and is not primarily in the
17 commercial interest;
- 18 (14) Shall adopt rules [~~which~~] that set forth uniform
19 standards for the records collection practices of
20 agencies;



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1 (15) Shall adopt rules that set forth uniform standards for
2 disclosure of records for research purposes;

3 (16) Shall have standing to appear in cases where the
4 provisions of this chapter or part I of chapter 92 are
5 called into question;

6 (17) Shall adopt, amend, or repeal rules pursuant to
7 chapter 91 necessary for the purposes of this chapter;
8 and

9 (18) Shall take action to oversee compliance with part I of
10 chapter 92 by all state and county boards including:

11 (A) Receiving and resolving complaints;

12 (B) Advising all government boards and the public
13 about compliance with chapter 92; and

14 (C) Reporting each year to the legislature on all
15 complaints received pursuant to section 92-1.5."

16 SECTION 4. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$185,000 or so much
18 thereof as may be necessary for fiscal year 2023-2024 and the
19 same sum or so much thereof as may be necessary for fiscal year
20 2024-2025 for two full-time equivalent (2.0 FTE) permanent



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1 positions to be placed within the office of information
2 practices.

3 The sums appropriated shall be expended by the office of
4 information practices for the purposes of this Act.

5 SECTION 5. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect on July 1, 2023;
8 provided that sections 2 and 3 shall take effect on July 1,
9 2024.

10

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Public Records; Duplication; Costs; Disclosure; Public Interest; Waiver; Appropriation

Description:

Beginning 7/1/2024, imposes a cap on charges for the reproduction of certain government records; waives the cost of duplication of government records provided to requestors in an electronic format; imposes a cap on charges for searching for, reviewing, and segregating records; and provides for a waiver of fees when the public interest is served by a record's disclosure. Appropriates funds for positions in the office of information practices.

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HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO PARTIAL PUBLIC FINANCING OF ELECTIONS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.

10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the Commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Additionally, the legislature finds that the amounts
10 available to candidates in Hawaii's partial public financing
11 program was last amended in 1995. Since that time, the value of
12 the dollar has risen to approximately \$1.92.

13 Accordingly, the purpose of this Act is to increase the
14 amount of funds available to candidates qualified to participate
15 in the partial public financing program by, among other things:

- 16 (1) Increasing the amount of funds available to all
17 candidates, including candidates for the board of
18 trustees for the office of Hawaiian affairs, who run
19 state-wide;
- 20 (2) Increasing the matching fund payments from \$1 for each
21 \$1 of qualifying contributions in excess of the



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1 minimum qualifying contribution amounts to \$2 for each
2 \$1 of excess qualifying contributions;

3 (3) Making downward adjustments to the amount of minimum
4 qualifying contributions required for the office of
5 the prosecuting attorney for the city and county of
6 Honolulu, county of Hawaii, and county of Kauai, and
7 the office of county council for the county of Maui;
8 and

9 (4) Appropriating funds from the general revenues of the
10 State to increase the amount of funds available in the
11 partial public financing program and to permit the
12 campaign spending commission to hire more staff to
13 address the anticipated increase in participation in
14 the partial public financing program.

15 SECTION 2. Section 11-425, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§11-425 Maximum amount of public funds available to**
18 **candidate.** (a) The maximum amount of public funds available in
19 each election to a candidate for the office of governor,
20 lieutenant governor, or mayor of the city and county of Honolulu
21 and the county of Hawaii, shall not exceed [~~ten~~] fifteen per



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1 cent of the expenditure limit established in section 11-423(d)
2 for each election.

3 (b) The maximum amount of public funds available in each
4 election to a candidate for the office of state senator, state
5 representative, mayor of the county of Kauai and the county of
6 Maui, county council member, and prosecuting attorney shall not
7 exceed [~~fifteen~~] twenty-two and a half per cent of the
8 expenditure limit established in section 11-423(d) for each
9 election.

10 (c) For the office of Hawaiian affairs, the maximum amount
11 of public funds available to a candidate shall not exceed
12 [~~\$1,500 in any election year.~~] ten per cent of the expenditure
13 limit established in section 11-423(d) for each election.

14 (d) [~~For all other offices, the maximum amount of public~~
15 ~~funds available to a candidate shall not exceed \$100 in any~~
16 ~~election year.~~

17 (e)] Each candidate who qualified for the maximum amount
18 of public funding in any primary election and who is a candidate
19 for a subsequent general election shall apply with the
20 commission to be qualified to receive the maximum amount of
21 public funds as provided in this section for the respective



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1 general election. For purposes of this section, "qualified"
2 means meeting the qualifying campaign contribution requirements
3 of section 11-429."

4 SECTION 3. Section 11-429, Hawaii Revised Statutes, is
5 amended by amending subsections (a) and (b) to read as follows:

6 "(a) As a condition of receiving public funds for a
7 primary or general election, a candidate shall not be unopposed
8 in any election for which public funds are sought, shall have
9 filed an affidavit with the commission pursuant to section 11-
10 423 to voluntarily limit the candidate's campaign expenditures,
11 and shall be in receipt of the following sum of qualifying
12 contributions from individual residents of Hawaii:

13 (1) For the office of governor--qualifying contributions
14 that in the aggregate exceed \$100,000;

15 (2) For the office of lieutenant governor--qualifying
16 contributions that in the aggregate exceed \$50,000;

17 (3) For the office of mayor for each respective county:

18 (A) County of Honolulu--qualifying contributions that
19 in the aggregate exceed \$50,000;

20 (B) County of Hawaii--qualifying contributions that
21 in the aggregate exceed \$15,000;



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- 1 (C) County of Maui--qualifying contributions that in
2 the aggregate exceed \$10,000; and
- 3 (D) County of Kauai--qualifying contributions that in
4 the aggregate exceed \$5,000;
- 5 (4) For the office of prosecuting attorney for each
6 respective county:
- 7 (A) County of Honolulu--qualifying contributions that
8 in the aggregate exceed [~~\$30,000~~] \$25,000;
- 9 (B) County of Hawaii--qualifying contributions that
10 in the aggregate exceed [~~\$10,000~~] \$5,000; and
- 11 (C) County of Kauai--qualifying contributions that in
12 the aggregate exceed [~~\$5,000~~] \$3,000;
- 13 (5) For the office of county council--for each respective
14 county:
- 15 (A) County of Honolulu--qualifying contributions that
16 in the aggregate exceed \$5,000;
- 17 (B) County of Hawaii--qualifying contributions that
18 in the aggregate exceed \$1,500;
- 19 (C) County of Maui--qualifying contributions that in
20 the aggregate exceed [~~\$5,000~~] \$4,000; and



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1 (D) County of Kauai--qualifying contributions that in
2 the aggregate exceed \$3,000;

3 (6) For the office of state senator--qualifying
4 contributions that, in the aggregate exceed \$2,500;

5 (7) For the office of state representative--qualifying
6 contributions that, in the aggregate, exceed \$1,500;

7 (8) For the office of Hawaiian affairs--qualifying
8 contributions that, in the aggregate, exceed [~~\$1,500,~~
9 \$5,000; and

10 (9) For all other offices, qualifying contributions that,
11 in the aggregate, exceed \$500.

12 (b) A candidate shall obtain the minimum qualifying
13 contribution amount set forth in subsection (a) once for the
14 election period.

15 (1) If the candidate obtains the minimum qualifying
16 contribution amount, the candidate is eligible to
17 receive:

18 (A) The minimum payment in an amount equal to the
19 minimum qualifying contribution amounts; and



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1 (B) Payments of [~~\$1~~] \$2 for each \$1 of qualifying
2 contributions in excess of the minimum qualifying
3 contribution amounts; and

4 (2) A candidate shall have at least one other qualified
5 candidate as an opponent for the primary or general
6 election to receive public funds for that election."

7 SECTION 4. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$ or so
9 much thereof as may be necessary for fiscal year 2023-2024 and
10 the same sum or so much thereof as may be necessary for fiscal
11 year 2024-2025 to be deposited into the Hawaii election campaign
12 fund.

13 SECTION 5. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$200,000 or so much
15 thereof as may be necessary for fiscal year 2023-2024 and the
16 same sum or so much thereof as may be necessary for fiscal year
17 2024-2025 for two full-time equivalent (2.0 FTE) permanent
18 positions to be placed within the campaign spending commission
19 to address the anticipated increase in participation in the
20 partial public financing program.



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1 The sums appropriated shall be expended by the campaign
2 spending commission for the purposes of this Act.

3 SECTION 6. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 7. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 8. This Act shall take effect on July 1, 2023.

9

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Elections; Partial Public Financing; Office of Hawaiian Affairs; Increases; Appropriation

Description:

Increases the amount of partial public financing available for all offices. Increases the maximum amount of public funds available for all offices by fifty per cent. Increases the maximum amount of public funds available for a candidate for OHA from \$1,500 to ten per cent of the expenditure limit established by statute for each election. Increases the amounts of qualifying contributions for OHA from more than \$1,500 in the aggregate to more than \$5,000 in the aggregate. Provides a downward adjustment of the minimum amounts of qualifying contributions for the office of prosecuting attorney for the city and county of Honolulu, and counties of Hawaii and Kauai, and for the office of county council for the county of Maui. Establishes two full-time equivalent (2.0 FTE) positions in the campaign spending commission. Appropriates funds.

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HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO PRELIMINARY DETERMINATION OF PROBABLE CAUSE.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.

10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 The legislature further finds that existing law requires
10 the campaign spending commission to serve preliminary
11 determinations of probable cause regarding campaign finance
12 violations via certified mail. Yet, the commission has had
13 instances where a candidate refused to claim the preliminary
14 determination of probable cause letter and it was returned to
15 the commission, thereby preventing service as required by law.
16 At the same time, when the commission sent the preliminary
17 determination of probable cause and other documents to the
18 candidate's address via first-class mail, as provided in the
19 candidate's organizational report, those mailings were not
20 returned to the commission as undeliverable.



H.B. NO.

1 Accordingly, the purpose of this Act is to implement
2 recommendations of the commission to improve standards of
3 conduct by amending the campaign spending commission's method of
4 service for preliminary determinations of probable cause.

5 SECTION 2. Section 11-405, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Upon hearing the response, if the respondent explains
8 or otherwise responds to the complaint, and upon completion of
9 any investigation, the commission may make a prompt preliminary
10 determination as to whether probable cause exists that a
11 violation of this part has been committed. The preliminary
12 determination with findings of fact and conclusions of law shall
13 be served upon the respondent by [~~certified mail.~~] first-class
14 mail. If the respondent is a candidate, candidate committee, or
15 noncandidate committee and the preliminary determination is
16 mailed to the address contained in the organizational report of
17 the candidate or committee, there is a presumption that the
18 candidate or committee received the preliminary determination
19 within two business days of the preliminary determination being
20 mailed."



H.B. NO.

1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.

7

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Campaign Spending Commission; Preliminary Determination; Method of Service

Description:

Requires the campaign spending commission to serve preliminary determinations of probable cause via first-class mail, instead of certified mail. Establishes a presumption of receipt when the preliminary determination is mailed to the address contained in a candidate or committee organizational report.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO CANDIDATE COMMITTEE EXPENDITURES.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.
10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Accordingly, the purpose of this Act is to implement
10 recommendations of the commission to improve standards of
11 conduct relating to the use of campaign funds to purchase up to
12 two tickets for an event or fundraiser held by another candidate
13 or committee.

14 SECTION 2. Section 11-381, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Campaign funds may be used by a candidate, treasurer,
17 or candidate committee:

18 (1) For any purpose directly related:

19 (A) In the case of the candidate, to the candidate's
20 own campaign; or



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- 1 (B) In the case of a candidate committee or treasurer
2 of a candidate committee, to the campaign of the
3 candidate, question, or issue with which they are
4 directly associated;
- 5 (2) To purchase or lease consumer goods, vehicles,
6 equipment, and services that provide a mixed benefit
7 to the candidate. The candidate, however, shall
8 reimburse the candidate's candidate committee for the
9 candidate's personal use of these items unless the
10 personal use is de minimis;
- 11 (3) To make donations to any community service,
12 educational, youth, recreational, charitable,
13 scientific, or literary organization; provided that in
14 any election period, the total amount of all donations
15 shall be no more than twice the maximum amount that
16 one person may contribute to that candidate pursuant
17 to section 11-357; provided further that no donations
18 shall be made from the date the candidate files
19 nomination papers to the date of the general election
20 unless the candidate is:



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- 1 (A) Declared to be duly and legally elected to the
2 office for which the person is a candidate
3 pursuant to section 12-41;
- 4 (B) Deemed and declared to be duly and legally
5 elected to the office for which the person is a
6 candidate pursuant to section 12-42; or
- 7 (C) Unsuccessful in the primary or special primary
8 election;
- 9 (4) To make donations to any public school or public
10 library; provided that in any election period, the
11 total amount of all contributions shall be no more
12 than twice the maximum amount that one person may
13 contribute to that candidate pursuant to section 11-
14 357; provided further that any donation under this
15 paragraph shall not be aggregated with or imputed
16 toward any limitation on donations pursuant to
17 paragraph (3);
- 18 (5) To award scholarships to full-time students attending
19 an institution of higher education or a vocational
20 education school in a program leading to a degree,
21 certificate, or other recognized educational



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1 credential; provided that in any election period, the
2 total amount of all scholarships awarded shall be no
3 more than twice the maximum amount that one person may
4 contribute to that candidate pursuant to section 11-
5 357; provided further that no awards shall be made
6 from the filing deadline for nomination papers to the
7 date of the general election unless the candidate is:

8 (A) Declared to be duly and legally elected to the
9 office for which the person is a candidate
10 pursuant to section 12-41;

11 (B) Deemed and declared to be duly and legally
12 elected to the office for which the person is a
13 candidate pursuant to section 12-42; or

14 (C) Unsuccessful in the primary or special primary
15 election;

16 ~~[-(6) To purchase not more than two tickets for each event~~
17 ~~held by another candidate or committee, regardless of~~
18 ~~whether the event constitutes a fundraiser as defined~~
19 ~~in section 11-342;~~



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1 ~~(7)~~] (6) To make contributions to the candidate's party so
2 long as the contributions are not earmarked for
3 another candidate; or

4 ~~(8)~~] (7) To pay for ordinary and necessary expenses
5 incurred in connection with the candidate's duties as
6 a holder of an office, including expenses incurred for
7 memberships in civic or community groups."

8 SECTION 3. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect on July 1, 2023.

11

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Candidate Committee Expenditures; Two Tickets

Description:

Eliminates the use of campaign funds to purchase up to two tickets for an event or fundraiser held by another candidate or committee.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO RECORDINGS OF PUBLIC MEETINGS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.
10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 The legislature additionally finds that opening the
10 governmental process to public scrutiny and participation is
11 necessary to protect the public's interests. Specifically,
12 opening up discussions, deliberations, decisions, and actions of
13 governmental agencies that are forming and implementing public
14 policy should be facilitated as much as possible.

15 Accordingly, the purpose of this Act is to implement
16 recommendations of the commission to improve standards of
17 conduct relating to public agency meetings by:

18 (1) Encouraging boards to maintain any electronic audio or
19 visual recording of a board meeting as a public record
20 on the board's website regardless of whether the
21 written minutes of the meeting have been posted;



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1 (2) Amending the information that must be included as part
2 of the written minutes of board meetings; and

3 (3) Requiring boards to provide the state archives with a
4 copy of any electronic audio or visual recording of a
5 board meeting before removing the recording from the
6 board's website.

7 SECTION 2. Section 92-3.7, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) For a remote meeting held by interactive conference
10 technology pursuant to this section:

11 (1) The interactive conference technology used by the
12 board shall allow interaction among all members of the
13 board participating in the meeting and all members of
14 the public attending the meeting;

15 (2) Except as provided in subsections (c) and (d), a
16 quorum of board members participating in the meeting
17 shall be visible and audible to other members and the
18 public during the meeting; provided that no other
19 meeting participants shall be required to be visible
20 during the meeting;



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- 1 (3) Any board member participating in a meeting by
2 interactive conference technology shall be considered
3 present at the meeting for the purpose of determining
4 compliance with the quorum and voting requirements of
5 the board;
- 6 (4) At the start of the meeting the presiding officer
7 shall announce the names of the participating members;
- 8 (5) All votes shall be conducted by roll call unless
9 unanimous; and
- 10 (6) When practicable, boards shall record meetings open to
11 the public and make the recording of any meeting
12 electronically available to the public as soon as
13 practicable after a meeting and until a time as the
14 minutes required by section 92-9 are electronically
15 posted on the board's website. Boards are encouraged
16 to keep recordings available on their website."

17 SECTION 3. Section 92-9, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) The board shall keep written or recorded minutes of
20 all meetings. Unless otherwise required by law, neither a full
21 transcript nor a recording of the meeting is required, but the



H.B. NO.

1 minutes shall give a true reflection of the matters discussed at
2 the meeting and the views of the participants. Prior to the
3 removal of a recording that was maintained on a board's website
4 pursuant to section 92-3.7(b)(6), the board shall provide the
5 state archives with a copy of the recording. Written minutes
6 shall include~~[, but need not be limited to:]~~ at minimum:

- 7 (1) The date, time and place of the meeting;
- 8 (2) The members of the board recorded as either present or
9 absent;
- 10 (3) The substance of all matters proposed, discussed, or
11 decided; and a record, by individual member, of any
12 votes taken; ~~and]~~
- 13 (4) If an electronic audio or video recording of the
14 meeting is available, a link to the electronic audio
15 or video recording of the meeting, to be placed at the
16 beginning of the minutes; and
- 17 ~~[(4)]~~ (5) Any other information that any member of the
18 board requests be included or reflected in the
19 minutes."

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



H.B. NO.

1 SECTION 5. This Act shall take effect on October 1, 2023.

2

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Recordings of Public Meetings; Meeting Minutes; Public Record; Boards

Description:

Encourages boards to maintain any electronic audio or visual recording of a board meeting as a public record on the board's website regardless of whether the written minutes of the meeting have been posted. Amends the information that must be included as part of the written minutes of board meetings. Requires boards to provide the state archives with a copy of any electronic audio or visual recording of a board meeting before removing the recording from the board's website. Effective 10/1/2023.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE RESOLUTION

AMENDING THE RULES OF THE HOUSE OF REPRESENTATIVES OF THE
THIRTY-SECOND LEGISLATURE OF THE STATE OF HAWAII.

1 BE IT RESOLVED by the House of Representatives of the
2 Thirty-second Legislature of the State of Hawaii, Regular
3 Session of 2023, that the Rules of the House of Representatives
4 be amended by adding a new House Rule to read as follows:
5

6 **Rule 62.12**

7
8 (1) No member, on any account, shall refrain from voting
9 unless excused by the presiding officer (the Speaker
10 or a committee chair, as the case may be).

11
12 (2) The presiding officer shall excuse a member who has a
13 conflict of interest in the question, or whose right
14 to a seat in the House will be affected by the
15 question, or whose official conduct is involved in the
16 question. If a member thinks there may be a personal
17 interest in the question, then prior to voting, the
18 member shall rise and disclose the interest to the
19 presiding officer. Alternatively, any member may
20 state their reasonable belief that another member may
21 have such an interest and provide information
22 supporting this belief. The presiding officer then
23 shall rule whether the member has a conflict of
24 interest. If so, the member shall be excused from
25 voting.

26
27 (3) If the presiding officer finds no conflict of
28 interest, or it is uncertain whether a member has a
29 conflict of interest in the question, there shall be a
30 determination in accordance with Rule 62.6.



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1
2 (4) If quorum required for any vote is not achieved due to
3 members recusing themselves based on a conflict of
4 interest, each such recused member shall nonetheless
5 be required to vote. Prior to, or within one week of,
6 the vote, the member shall present to the voting body
7 a detailed written explanation of the specific facts
8 describing the member's conflict of interest, which
9 shall be recorded in the Journal of the House of
10 Representatives and posted on the House website until
11 the next legislative biennium.

12
13 For the purposes of this rule, a "conflict of interest" has
14 the same meaning as defined in Rule 62.5."; and

15
16 BE IT FURTHER RESOLVED that the Rules of the House of
17 Representatives be amended by amending House Rule 29 Disclosures
18 and Punishment of Members to read as follows:

19
20 **"Rule 29. Disclosures and Punishment of Members**

21
22 **29.1** Each member shall file with the Ethics Commission of
23 the State of Hawaii a disclosure of his or her private
24 financial interests, as prescribed by law. Each
25 member shall file with the Ethics Commission any
26 change in [~~his or her~~] such financial interests.

27
28 **29.2** If a legislative matter which affects a member's
29 interests arises before the member has made a
30 disclosure to the Ethics Commission, the member shall
31 [~~orally~~] disclose [~~his or her~~] orally such interest to
32 the House [~~before~~] prior to voting[-] and recuse
33 themselves from voting, with the option to request a
34 ruling in accordance with Rule 62.6. The member then
35 shall immediately make the written disclosure required
36 by law and these Rules.

37
38 Any member who has filed a disclosure as required by
39 this Rule shall not need to make a further oral
40 disclosure on the House floor of any interest so



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1 filed, unless the disclosed financial interest
 2 presents a conflict as defined in Rule 62.5

3
 4 **29.3** In accordance with Rule [~~60.7,~~ 62.7, the Speaker
 5 shall appoint a Select Committee on Standards of
 6 Conduct to receive complaints and investigate any
 7 member for misconduct, disorderly conduct, neglect of
 8 duty, violation of chapter 84, Hawaii Revised
 9 Statutes, or violation of these Rules. The House may
 10 punish any member found guilty by such a committee by
 11 censure, suspension, or expulsion. Censure shall
 12 require the approval of a majority of the members to
 13 which the House is entitled. Suspension or expulsion
 14 shall require the approval of two-thirds of the
 15 members to which the House is entitled."; and
 16

17 BE IT FURTHER RESOLVED that the Rules of the House of
 18 Representatives be amended by amending House Rule 62.5 to read
 19 as follows:
 20

21 **"62.5** [~~If the member has a conflict of interest in~~
 22 ~~legislation, the member shall disclose to the~~
 23 ~~presiding officer (the committee chair or the Speaker,~~
 24 ~~depending on where the vote is taking place) the~~
 25 ~~conflict of interest prior to voting on that~~
 26 ~~legislation. For the purposes of this rule, a~~
 27 ~~"conflict of interest" means that the legislation~~
 28 ~~affects the member's direct personal, familial, or~~
 29 ~~financial interest except if the member, or the~~
 30 ~~member's relative, is part of a class of people~~
 31 ~~affected by the legislation.] No member shall vote
 32 on, support, or oppose, make recommendations on,
 33 discuss or debate, or take other official action on
 34 any question or legislation if the member has a
 35 conflict of interest in the question or legislation.~~

36
 37 "Conflict of interest" is defined broadly to encompass
 38 a variety of situations in which any private interest
 39 of a member, or of the member's business associate or
 40 immediate family member, is or could reasonably be in



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1 direct conflict with the member's duty to act in the
2 public interest, including the following:

3
4 (A) Any situation in which a familial, business,
5 property, or financial interest would be affected
6 by the member's official legislative action,
7 excluding incidental or nominal gain or
8 detriment;

9
10 (B) Any situation involving personal, political,
11 legal, reputational, or other issues that would
12 cause a reasonable person with knowledge of
13 relevant facts to question either the member's
14 impartiality in the matter or the member's
15 ability to exercise official legislative action
16 in a fair, unbiased, and objective manner;

17
18 (C) Any situation in which a member's official
19 legislative action would affect a lobbying
20 organization or lobbyist with which the member
21 was employed or received any personal
22 compensation from during the previous five years;

23
24 (D) Any situation in which a member's official
25 legislative action would affect a business or
26 undertaking in which the member holds or held an
27 interest during the previous three years,
28 including a private undertaking in which the
29 member is or was engaged as legal counsel,
30 advisor, consultant, representative, or other
31 agency capacity;

32
33 (E) Any situation in which a member's official
34 legislative action would affect a person or
35 agency that has investigated any issue relating
36 to the member in the prior two years, if the
37 investigation found improper conduct on the part
38 of the member, unless the member's actions would
39 be favorable to the investigating person or
40 agency;

41



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1 (F) Any situation in which a member's business
2 associate or immediate family member accepts a
3 significant gift from any person or entity whose
4 financial interest would be affected by pending
5 legislative action or inaction, and the member
6 knows or reasonably should know that the person
7 or entity's intent in making the gift is to
8 influence the member in the performance of the
9 member's official legislative duties or is
10 intended as a reward for any action or inaction
11 taken by the member; and

12
13 (G) Any situation in which public confidence in
14 government would be substantially eroded by the
15 member's official legislative action affecting a
16 personal interest, including action designed to
17 intimidate or retaliate.

18
19 For the purposes of this rule:

20
21 "Business associate" means an owner, employee,
22 contractor, or other agent of a professional firm,
23 partnership, or other business from which the member
24 or the member's immediate family member receives

25
26 "Immediate family member" means a parent, child,
27 grandparent, grandchild, sibling, spouse, partner, or
28 household member."; and

29
30 BE IT FURTHER RESOLVED that the Rules of the House of
31 Representatives be amended by amending House Rule 62.6 to read
32 as follows:

33
34 **"62.6** If a member is uncertain as to whether a conflict of
35 interest exists, the member shall preliminarily recuse
36 themselves from voting, but may request a ruling from
37 the presiding officer (the Speaker or committee chair,
38 as the case may be) by giving notice and disclosing
39 the [direct financial] conflict of interest to the
40 presiding officer in sufficient detail for the
41 presiding officer to make an informed ruling prior to



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1 voting. When making a determination in cases where a
2 portion of a measure may place a member in a conflict
3 of interest, the presiding officer shall give due
4 consideration to the context of that portion as it
5 relates to the overall purpose of the measure. If the
6 presiding officer determines that a conflict exists,
7 the presiding officer shall [~~recognize the conflict~~
8 ~~and honor the member's request to be excused~~] excuse
9 the member from discussion, debate, and voting.

10
11 If the presiding officer determines that no conflict
12 exists, the matter shall be presented to the floor or
13 committee, as appropriate, and if two-thirds of the
14 voting members agree, the member shall be allowed to
15 participate in discussion, debate, and voting.
16 Members who have a conflict or possible conflict with
17 respect to voting on the status of another member's
18 conflict shall recuse themselves from that vote
19 without further recourse."; and

20
21 BE IT FURTHER RESOLVED that new language for rules added to
22 the Rules of the House of Representatives is underscored and
23 repealed language of the Rules of the House of Representatives
24 is bracketed and stricken.

25
26
27 OFFERED BY: _____



THE SENATE
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

S.R. NO.

SENATE RESOLUTION

AMENDING RULE 71, 81, 83, AND 85 OF THE RULES OF THE SENATE OF
THE THIRTY-SECOND LEGISLATURE OF THE STATE OF HAWAII.

1 BE IT RESOLVED by the Senate of the Thirty-second
2 Legislature of the State of Hawaii, Regular Session of 2023,
3 that the Rules of the Senate be amended by amending Senate Rule
4 71 Voting: Rights of Members to read as follows:
5

6 **"Rule 71 Voting: Rights of Members.**

7
8 (1) No member, on any account, shall refrain from voting
9 unless excused by the [~~President.~~] presiding officer (the
10 President or a committee chair, as the case may be). A member
11 voting "with reservations" shall be counted as a favorable vote.
12 A member may vote "Kanalua" the first time the member's name is
13 called by the Clerk on any vote, but if the member votes
14 "Kanalua" on the next call of the member's name, the member's
15 vote shall be recorded as "Aye."
16

17 (2) The [~~President may~~] presiding officer shall excuse a
18 member who has a [~~monetary~~] conflict of interest in the
19 question, or whose right to a seat in the Senate will be
20 affected by the question, or whose official conduct is involved
21 in the question. If a member thinks there may be a personal
22 interest in the question, then prior to voting, the member shall
23 rise and disclose the interest to the [~~President.—The~~
24 President] presiding officer. Alternatively, any member may
25 state their reasonable belief that another member may have such
26 an interest and provide information supporting this belief. The
27 presiding officer then shall rule whether the member has a
28 conflict of interest. If so, the member shall be excused from
29 voting. For the purposes of this rule, "conflict of interest"
30 has the same meaning as defined in Rule 85.
31

32 If the presiding officer finds no conflict of interest, or
33 it is uncertain whether a member has a conflict of interest in



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1 the question, there shall be a determination in accordance with
2 Rule 85(2).

3
4 If quorum required for any vote cannot be achieved due to
5 members recusing themselves based on a conflict of interest,
6 each recused member shall nonetheless be required to vote;
7 provided that prior to, or within one week of, the vote, the
8 member shall present to the voting body a detailed written
9 explanation of the specific facts describing the member's
10 conflict of interest, which shall be recorded in the Journal of
11 the Senate and posted on the Senate website until the next
12 legislative biennium.

13
14 (3) Whenever the Ayes and Noes are called, no one, without
15 unanimous consent, shall be permitted to explain a vote.

16
17 (4) After the announcement by the President of the result,
18 no one shall be allowed to vote or to change a vote."; and

19
20 BE IT FURTHER RESOLVED that the Rules of the Senate be
21 amended by amending Senate Rule 81 Standards of Conduct to read
22 as follows:

23
24 **"Rule 81 Standards of Conduct.**

25
26 (1) Members should conduct themselves in a respectful
27 manner befitting the office with which they as elected officials
28 have been entrusted, respecting and complying with the law and
29 acting at all times in a manner that promotes public confidence
30 in the integrity of the Senate.

31
32 (2) Members should not lend the prestige of public office
33 to advance the private interests of themselves or others; nor
34 should members convey or permit others to convey the impression
35 that they are in a special position to unduly influence pending
36 public business before them.

37
38 (3) Members should treat their fellow Senate members,
39 staff, and the general public with respect and courtesy,
40 regardless of political or religious beliefs, race, ethnicity,
41 sex, sexual orientation, or physical disability.

42



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1 (4) The legislative duties of members as prescribed by law
2 and these Rules should take precedence over all of their other
3 business or professional activities. Members should freely and
4 willingly accept certain restrictions on their business
5 activities and professional conduct that might be considered
6 burdensome by an ordinary private citizen, and should perform
7 the duties of elected office impartially and diligently. To the
8 greatest extent reasonably possible, members should:

- 9
- 10 (A) Refrain from allowing family, social, business, or
11 other relationships to unduly influence the member's
12 legislative conduct or judgment.
13
- 14 (B) Refrain from showing bias or prejudice, including but
15 not limited to bias or prejudice based on political or
16 religious beliefs, race, ethnicity, sex, sexual
17 orientation, or physical disability, in the
18 performance of their official duties.
19
- 20 (C) Exercise patience, tolerance and courtesy to all those
21 with whom they deal with in an official capacity, and
22 require staff and others subject to their direction
23 and control to maintain similar standards of conduct,
24 fidelity, and diligence inherent in public service.
25
- 26 (D) Exercise the power of appointment impartially and on
27 the basis of merit, refraining from making unnecessary
28 appointments and approving compensation of appointees
29 beyond the fair value of services rendered.
30
- 31 (E) Afford to every person who wishes to participate in
32 the legislative process the opportunity to be heard
33 according to established procedures.
34
- 35 (F) Consider at all times whether their conduct would
36 create in reasonable minds the perception that their
37 ability to carry out legislative responsibilities with
38 integrity and independence is either questionable or
39 impaired.
40
- 41 (G) Manage their personal interests and obligations so as
42 to minimize the number of votes in which they are in,



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1 or may reasonably be perceived to be in, potential
 2 conflict;

3
 4 [~~(G)~~] (H) Refrain from using, or permitting the use of, the
 5 privileges and prestige of their public office to
 6 derive undue personal, professional, or financial
 7 benefits for themselves, members of their families, or
 8 others with whom they maintain personal, business, or
 9 professional relationships.

10
 11 [~~(H)~~] (I) Refrain from engaging in financial and business
 12 dealings that involve them in frequent transactions,
 13 or continuing business or professional relationships,
 14 with those persons likely to derive benefits from
 15 public financial matters either pending or already
 16 deliberated and voted upon by the Senate, to the
 17 extent that such conduct may reasonably be perceived
 18 as personal exploitation of their public office."; and
 19

20 BE IT FURTHER RESOLVED that the Rules of the Senate be
 21 amended by amending Senate Rule 83 Disclosures to read as
 22 follows:

23
 24 **"Rule 83 Disclosures.**

25
 26 Each member shall file with the Ethics Commission of the
 27 State of Hawai'i, a disclosure of the member's private financial
 28 interests, as prescribed by law. Each member shall file with
 29 the Ethics Commission any change in such financial interests.
 30

31 If a legislative matter which affects a member's interests
 32 arises before the member has made a disclosure to the Ethics
 33 Commission, the member shall disclose orally such interest to
 34 the Senate [~~before~~] prior to voting[~~-~~] and recuse themself from
 35 voting, with the option to request a ruling in accordance with
 36 Rule 71. The member then shall immediately make the written
 37 disclosure required by law and the Rules of the Senate.
 38

39 Any member who has filed a disclosure as required by this
 40 Rule need not make a further oral disclosure on the Senate floor
 41 of any interest so filed[~~-~~], unless the disclosed financial
 42 interest presents a conflict as defined in Rule 85."; and



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1
2 BE IT FURTHER RESOLVED that the Rules of the Senate be
3 amended by amending Senate Rule 85 Conflicts of Interest to read
4 as follows:

5
6 **"Rule 85 Conflicts of Interest.**

7
8 (1) No member shall vote on [~~any legislation if the member~~
9 ~~has a direct financial interest in the legislation, unless the~~
10 ~~member is part of the class of people affected by the official~~
11 ~~action based upon the member's profession, trade or business;~~
12 ~~provided that this rule shall not apply to votes on the~~
13 ~~recommendations of a committee when a member has disclosed a~~
14 ~~potential conflict. For the purposes of this rule, a "direct~~
15 ~~financial interest" means that the legislation affects the~~
16 ~~legislator's personal business, property, or financial~~
17 ~~interest.], support or oppose, make recommendations on, discuss
18 or debate, or take other official action on any question or
19 legislation if the member has a conflict of interest in the
20 question or legislation.~~

21
22 "Conflict of interest" is defined broadly to encompass a
23 variety of situations in which any private interest of a member,
24 or of the member's business associate or immediate family
25 member, is or could reasonably be in direct conflict with the
26 member's duty to act in the public interest, including the
27 following:

- 28
29 (A) Any situation in which a familial, business, property,
30 or financial interest would be affected by the
31 member's official legislative action, excluding
32 incidental or nominal gain or detriment;
33
34 (B) Any situation involving personal, political, legal,
35 reputational, or other issues that would cause a
36 reasonable person with knowledge of relevant facts to
37 question either the member's impartiality in the
38 matter or the member's ability to exercise official
39 legislative action in a fair, unbiased, and objective
40 manner;
41



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1 (C) Any situation in which a member's official legislative
 2 action would affect a lobbying organization or
 3 lobbyist with which the member was employed or
 4 received any personal compensation from during the
 5 previous five years;

6
 7 (D) Any situation in which a member's official legislative
 8 action would affect a business or undertaking in which
 9 the member holds or held an interest during the
 10 previous three years, including a private undertaking
 11 in which the member is or was engaged as legal
 12 counsel, advisor, consultant, representative, or other
 13 agency capacity;

14
 15 (E) Any situation in which a member's official legislative
 16 action would affect a person or agency that has
 17 investigated any issue relating to the member in the
 18 prior two years, if the investigation found improper
 19 conduct on the part of the member, unless the member's
 20 actions would be favorable to the investigating person
 21 or agency;

22
 23 (F) Any situation in which a member's business associate
 24 or immediate family member accepts a significant gift
 25 from any person or entity whose financial interest
 26 would be affected by pending legislative action or
 27 inaction, and the member knows or reasonably should
 28 know that the person or entity's intent in making the
 29 gift is to influence the member in the performance of
 30 the member's official legislative duties or is
 31 intended as a reward for any action or inaction taken
 32 by the member; and

33
 34 (G) Any situation in which public confidence in government
 35 would be substantially eroded by the member's official
 36 legislative action affecting a personal interest,
 37 including action designed to intimidate or retaliate.

38
 39 For the purposes of this rule:

40
 41 "Business associate" means an owner, employee, contractor,
 42 or other agent of a professional firm, partnership, or other



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1 business from which the member or the member's immediate family
2 member receives compensation or owns.

3
4 "Immediate family member" means a parent, child,
5 grandparent, grandchild, sibling, spouse, partner, or household
6 member.

7
8 (2) If a member is uncertain as to whether a conflict of
9 interest exists, the member shall preliminarily recuse himself
10 from voting, but may request a ruling from the [President]
11 presiding officer (the President or committee chair, as the case
12 may be) by giving notice and disclosing the [direct financial]
13 conflict of interest to the [President] presiding officer in
14 sufficient detail for the presiding officer to make an informed
15 ruling prior to voting. When making a determination in cases
16 where a portion of a measure may place a member in a conflict of
17 interest, the [President] presiding officer and voting members
18 shall give due consideration to the context of that portion as
19 it relates to the overall purpose of the measure. If the
20 [President] presiding officer determines that a conflict exists,
21 the [President] presiding officer shall excuse the member from
22 discussion, debate, and voting.

23
24 If the presiding officer determines that no conflict
25 exists, the matter shall be presented to the floor or committee,
26 as appropriate, and if two-thirds of the voting members agree,
27 the member shall be allowed to participate in discussion,
28 debate, and voting. Members who have a conflict or possible
29 conflict with respect to voting on the status of another
30 member's conflict shall recuse themselves from that vote without
31 further recourse."; and

32
33 BE IT FURTHER RESOLVED that the Senate Rule material to be
34 repealed is bracketed and stricken and new Senate Rule material
35 is underscored; and

36



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO THE SUNSHINE LAW.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.
10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Accordingly, the purpose of this Act is to implement
10 recommendations of the commission to improve standards of
11 conduct relating to expanded application of the State's sunshine
12 law to legislatively appointed bodies.

13 SECTION 2. Section 92-10, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§92-10 Legislative branch; legislatively appointed**
16 **bodies; applicability.** (a) Notwithstanding any provisions
17 contained in this chapter to the contrary, open meeting
18 requirements, and provisions regarding enforcement, penalties
19 and sanctions, as they are to relate to the state legislature or
20 to any of its members shall be such as shall be from time to
21 time prescribed by the respective rules and procedures of the



H.B. NO.

1 senate and the house of representatives, which rules and
2 procedures shall take precedence over this part. Similarly,
3 provisions relating to notice, agenda and minutes of meetings,
4 and such other requirements as may be necessary, shall also be
5 governed by the respective rules and procedures of the senate
6 and the house of representatives.

7 (b) Except as provided in this subsection, this part and
8 part IV shall apply to each legislatively appointed body and
9 shall take precedence over any rules and procedures of the
10 senate or house of representatives that govern the same content
11 of this part and part IV as they relate to meetings and public
12 hearings of legislatively appointed bodies. Any bill or
13 resolution establishing a legislatively appointed body may
14 exempt that body from the requirements of this part and part IV
15 by inclusion in its final form of a specific finding or
16 declaration that articulates the rationale for the exemption.

17 (c) The senate and the house of representatives shall each
18 hold or jointly hold a public hearing or briefing on a biennial
19 basis to solicit professional and public opinions on how the
20 rules and procedures established by each chamber can better
21 effectuate the intent of this chapter. These hearings or



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1 briefings shall be held in accordance with this part and part
2 IV.

3 (d) For the purposes of this section, "legislatively
4 appointed body" means a task force, working group, special
5 committee, or select committee that has a membership consisting
6 entirely of state legislators who were appointed by one or both
7 houses of the legislature or one or both of the presiding
8 officers of each house of the legislature."

9 SECTION 3. New statutory material is underscored.

10 SECTION 4. This Act shall take effect on July 1, 2023.

11

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Legislatively Appointed Bodies; Task Forces; Working Groups; Special Committees; Sunshine Law

Description:

Expands application of the State's sunshine law to legislatively appointed bodies, including task forces, working groups, special committees, and select committees. Requires the senate and the house of representatives to hold public hearings on a biennial basis to solicit professional and public feedback on how chamber rules can better effectuate the intent of the State's sunshine law.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO VIOLATIONS OF CAMPAIGN FINANCE LAW.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.
10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Accordingly, the purpose of this Act is to implement
10 recommendations of the commission to improve standards of
11 conduct by:

- 12 (1) Increasing the amount of the fine for campaign
13 spending law violations that may be assessed against a
14 noncandidate committee making only independent
15 expenditures and that has received at least one
16 contribution of more than \$10,000, or spent more than
17 \$10,000, in an election period; and
- 18 (2) Allowing the campaign spending commission to order
19 that the payment of a fine assessed against a
20 noncandidate committee, or any portion thereof, be



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1 paid from the personal funds of an officer of the
2 noncandidate committee.

3 SECTION 2. Section 11-410, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (a) to read:

6 "(a) The commission may make a decision or issue an order
7 affecting any person violating any provision of this part [~~or~~
8 ~~section 281-22~~] that may provide for the assessment of an
9 administrative fine as follows:

10 [~~(1) If an individual, an amount not to exceed \$1,000 for~~
11 ~~each occurrence or an amount equivalent to three times~~
12 ~~the amount of an unlawful contribution or expenditure,~~
13 ~~or~~

14 ~~(2)]~~ (1) If a [~~corporation, organization, association, or~~
15 ~~labor union,~~] noncandidate committee that makes only
16 independent expenditures and has either received at
17 least one contribution of more than \$10,000 from any
18 one person in an election period or has made
19 expenditures of more than \$10,000 in the aggregate in
20 an election period, an amount not to exceed [~~\$1,000~~]
21 \$5,000 for each occurrence [~~+~~] or an amount not to



H.B. NO.

1 exceed three times the amount of an unlawful
2 contribution or expenditure; or
3 (2) If a person other than a person described in paragraph
4 (1), an amount not to exceed \$1,000 for each
5 occurrence or an amount not to exceed three times the
6 amount of an unlawful contribution or expenditure;
7 provided that whenever a corporation, organization, association,
8 or labor union violates this part, the violation may be deemed
9 to be also that of the individual directors, officers, or agents
10 of the corporation, organization, association, or labor union,
11 who have knowingly authorized, ordered, or done any of the acts
12 constituting the violation."

13 2. By amending subsection (c) to read:

14 "(c) If an administrative fine is imposed upon a
15 candidate[~~r~~] or noncandidate committee, the commission may order
16 that the fine, or any portion[~~r~~] of the fine, be paid from the
17 [~~candidate's~~] personal funds[~~r~~] of the candidate or officers of
18 the noncandidate committee."

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



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1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

4

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Campaign Spending Commission; Administrative Fines; Noncandidate Committees; Independent Expenditures

Description:

Increases the amount of the fine for campaign spending law violations that may be assessed against a noncandidate committee making only independent expenditures and that has received at least one contribution of more than \$10,000, or spent more than \$10,000, in an election period. Allows the campaign spending commission to order that the payment of a fine assessed against a noncandidate committee, or any portion thereof, be paid from the personal funds of an officer of the noncandidate committee.

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HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

PROPOSING AMENDMENTS TO ARTICLE III OF THE CONSTITUTION OF THE
STATE OF HAWAII TO ESTABLISH LEGISLATIVE TERM LIMITS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.

10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and



H.B. NO.

1 invited individuals and agencies to issue a final report with
2 various recommendations and accompanying proposed legislation.

3 The legislature also finds that the strength and stability
4 of our democratic government rely upon the public's trust in
5 government institutions, including the expectation that officers
6 act ethically with prudence, integrity, and sound judgement.
7 Therefore, an essential goal of the commission was to provide
8 recommendations that would help restore public trust in state
9 government and increase the level of transparency in its
10 operations and accountability of individuals.

11 Accordingly, the purpose of this Act is to implement
12 recommendations of the commission to improve standards of
13 conduct relating to setting limits on the number of years any
14 person may serve as a member of the legislature during the
15 person's lifetime.

16 SECTION 2. Article III of the Constitution of the State of
17 Hawaii is amended by adding a new section to be appropriately
18 designated and to read as follows:

19 **"MAXIMUM LENGTH OF SERVICE"**

20 **Section** . **No person shall serve as a member of the**
21 **legislature, whether as a member of the house of**



H.B. NO.

1 representatives, a member of the senate, or any combination
2 thereof, for more than sixteen years during the person's
3 lifetime.

4 This section shall not apply to the legislative terms for
5 those legislators who were elected or appointed to serve in
6 either house of the legislature on or prior to the effective
7 date of this Act."

8 SECTION 3. The question to be printed on the ballot shall
9 be as follows:

10 "Shall a person subsequently appointed or elected to the
11 legislature be limited to serving no more than sixteen years
12 as a member of the legislature, whether as a member of the
13 house of representatives, a member of the senate, or any
14 combination thereof, during the person's lifetime?"

15 SECTION 4. New constitutional material is underscored.

16 SECTION 5. This amendment shall take effect upon
17 compliance with article XVII, section 3, of the Constitution of
18 the State of Hawaii.

19

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Constitutional Amendment; Legislators; Term Limits

Description:

Proposes a constitutional amendment to prohibit a person from serving as a member of the legislature for more than sixteen years during the person's lifetime.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO GIFTS FROM LOBBYISTS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.
10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Accordingly, the purpose of this Act is to implement
10 recommendations of the commission to improve standards of
11 conduct by prohibiting lobbyists from making certain gifts to
12 legislators and state employees.

13 SECTION 2. Chapter 97, Hawaii Revised Statutes, is amended
14 by adding a new section to be appropriately designated and to
15 read as follows:

16 "§97- Unlawful gifts by lobbyists. (a) It shall be
17 unlawful for a lobbyist or any person or entity required to file
18 a statement of expenditures under section 97-3 to make gifts to
19 a legislator or employee that are prohibited by section 84-11 or
20 title 21 Hawaii Administrative Rules chapter 7.



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1 (b) For the purposes of this section, "employee" shall
 2 have the same meaning as defined in section 84-3."

3 SECTION 3. Section 97-7, Hawaii Revised Statutes, is
 4 amended by amending subsection (a) to read as follows:

5 "(a) Any person ~~[who:]~~ or entity that:

6 (1) Negligently fails to file any statement or report
 7 required by this chapter;

8 (2) Negligently files a statement or report containing
 9 false information or material omission of any fact;

10 (3) Engages in activities prohibited by section 97-5; ~~[or]~~

11 (4) Fails to provide information required by section 97-2
 12 or 97-3; or

13 (5) Makes a gift in violation of section 97- ;

14 shall be subject to an administrative fine imposed by the state
 15 ethics commission that shall not exceed \$1,000 for each
 16 violation of this chapter. All fines collected under this
 17 section shall be deposited into the general fund."

18 SECTION 4. This Act does not affect rights and duties that
 19 matured, penalties that were incurred, and proceedings that were
 20 begun before its effective date.



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1 SECTION 5. If any provision of this Act, or the
2 application thereof to any person or circumstance, is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act that can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

7 SECTION 6. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 7. This Act shall take effect upon its approval.

10

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Lobbyists; Gifts; Legislators; State Employees; Administrative Fine

Description:

Prohibits lobbyists from making prohibited gifts to legislators and state employees. Imposes administrative fines for violations.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1 SECTION 1. The legislature finds that the house of
2 representatives adopted House Resolution No. 9 (2022) to
3 establish the commission to improve standards of conduct. The
4 resolution requests the commission ensure state laws and rules
5 relating to standards of conduct of public officers and
6 employees contain clear standards, enforcement, and penalties
7 and provide recommendations to increase awareness of, compliance
8 with, and deterrent effects of the code of ethics, lobbying
9 laws, campaign finance laws, and other relevant laws and rules.
10 Pursuant to House Resolution No. 9, the commission to
11 improve standards of conduct convened regularly throughout 2022
12 to diligently review, discuss, and consider the issues
13 presented, submitted an interim report to the house of
14 representatives outlining areas of immediate and long-term
15 focus, then continued its work with input from the public and
16 invited individuals and agencies to issue a final report with
17 various recommendations and accompanying proposed legislation.



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1 The legislature also finds that the strength and stability
2 of our democratic government rely upon the public's trust in
3 government institutions, including the expectation that officers
4 act ethically with prudence, integrity, and sound judgement.
5 Therefore, an essential goal of the commission was to provide
6 recommendations that would help restore public trust in state
7 government and increase the level of transparency in its
8 operations and accountability of individuals.

9 Accordingly, the purpose of this Act is to implement
10 recommendations of the commission to improve standards of
11 conduct relating to educating the electorate on candidates and
12 ballot questions.

13 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
14 by adding a new section to part VIII to be appropriately
15 designated and to read as follows:

16 "§11- **Voter information guide.** (a) The office of
17 elections shall prepare, and post on its website, a voter
18 information guide. A physical copy of the voter information
19 guide shall be made available upon the request by a voter. The
20 office of elections shall provide a translation of the voter
21 information guide on its website in Olelo Hawaii, Chinese,



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1 Ilocano, and Tagalog, and any other language as required by
2 federal or state law. The voter information guide shall be
3 posted in a screen reader-accessible format for voters with
4 special needs who are unable to read standard print due to
5 disability.

6 (b) The voter information guide shall include:

7 (1) A short statement of no more than one hundred fifty
8 words for each candidate running for public office, to
9 be prepared by the candidate; provided that the office
10 of elections may uniformly limit the number of words
11 for the candidate statement by applicable public
12 office;

13 (2) The statement and arguments prepared by the attorney
14 general, in consultation with the legislative
15 reference bureau, pursuant to section 11-118.5(b);

16 (3) A clear and concise statement, prepared by the
17 appropriate county corporation counsel or county
18 attorney, in consultation with the office of county
19 council services, that indicates the purpose,
20 limitations, and effects for each proposed county



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1 charter amendment, proposed initiative, and proposed
2 referendum issue; and
3 (4) Arguments submitted by the public to the appropriate
4 county corporation counsel or county attorney and
5 office of county council services for and against each
6 proposed county charter amendment, proposed
7 initiative, and proposed referendum issue. The office
8 of county council services shall establish a process
9 to solicit arguments from the public, which may
10 include a word limit.

11 (c) The office of elections shall prepare and mail with
12 each ballot for a primary election or special election a notice
13 to voters that the voter information guide is available on the
14 office of elections website. The notice shall be sent by
15 electronic mail to all voters with special needs who have
16 registered to receive alternate format ballots.

17 (d) Information made available over the Internet pursuant
18 to this section shall meet or exceed the most current, ratified
19 standards under section 508 of the federal Rehabilitation Act of
20 1973 (29 U.S.C. 794d), as amended, and the Web Content



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1 Accessibility Guidelines 2.0 adopted by the World Wide
2 Consortium for accessibility."

3 SECTION 3. Section 11-118.5, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) The attorney general, in consultation with the
6 legislative reference bureau, shall prepare [a]:

7 (1) A statement in English and Hawaiian for each proposed
8 constitutional amendment in language that is clear and
9 that indicates the purpose, limitations, and effects
10 of the proposed amendment[-]; and

11 (2) Arguments submitted by the public for and against the
12 proposed constitutional amendment. The legislative
13 reference bureau shall establish a process to solicit
14 arguments from the public, which may include a word
15 limit.

16 The attorney general shall distribute each statement and the
17 arguments to the state office of elections and all county clerks
18 for further distribution. The office of elections and county
19 clerks shall make the statement and arguments available to the
20 public at all polling places in the State and on a website
21 operated by the office of elections."



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1 SECTION 4. There is appropriated out of the general
 2 revenues of the State of Hawaii the sum of \$ or so
 3 much thereof as may be necessary for fiscal year 2023-2024 and
 4 the sum of \$ or so much thereof as may be necessary
 5 for fiscal year 2024-2025 for the preparation of the statement
 6 and arguments for the voter information guide.

7 The sums appropriated shall be expended by the department
 8 of the attorney general for the purposes of this Act.

9 SECTION 5. There is appropriated out of the general
 10 revenues of the State of Hawaii the sum of \$ or so
 11 much thereof as may be necessary for fiscal year 2023-2024 and
 12 the sum of \$ or so much thereof as may be necessary
 13 for fiscal year 2024-2025 for the preparation and distribution
 14 of voter information guides.

15 The sums appropriated shall be expended by the office of
 16 elections for the purposes of this Act.

17 SECTION 6. There is appropriated out of the general
 18 revenues of the State of Hawaii the sum of \$ or so
 19 much thereof as may be necessary for fiscal year 2023-2024 and
 20 the sum of \$ or so much thereof as may be necessary



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1 for fiscal year 2024-2025 for preparation of the statement and
2 arguments for the voter information guide.

3 The sums appropriated shall be expended by the legislative
4 reference bureau for the purposes of this Act.

5 SECTION 7. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so
7 much thereof as may be necessary for fiscal year 2023-2024 and
8 the sum of \$ or so much thereof as may be necessary
9 for fiscal year 2024-2025 for the preparation of the statement
10 and arguments for the voter information guide as follows:

	<u>2023-2024</u>	<u>2024-2025</u>
11 County of Hawaii	\$	\$
12 County of Kauai	\$	\$
13 County of Maui	\$	\$
14 City and county	\$	\$
15 of Honolulu		

16
17 The sums appropriated to each county shall be expended by
18 each county for the purposes of this Act.

19 SECTION 8. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21



H.B. NO.

1 SECTION 9. This Act shall take effect on July 1, 2023.

2

INTRODUCED BY: _____



H.B. NO.

Report Title:

Commission to Improve Standards of Conduct; Elections; Voter Information Guide; Candidate Statements; Explanations; Appropriations

Description:

Requires the office of elections to prepare a voter information guide that includes candidate statements and statements on ballot questions. Appropriates funds to the department of the attorney general, legislative reference bureau, and counties for the preparation of the ballot analyses. Appropriates funds to the office of elections for the preparation and distribution of the voter information guides.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Appendix D

Interim Report (including
appendices) submitted

March 31, 2022



HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL, ROOM 431
415 SOUTH BERETANIA STREET
HONOLULU, HAWAII 96813

March 31, 2022

MEMORANDUM

TO: All House Members

FROM: Speaker Scott K. Saiki

A handwritten signature in black ink, appearing to read "SCS", is written over the printed name of the speaker.

SUBJECT: **Interim Report of the Commission to Improve Standards of Conduct**

Attached for your review and consideration is the Interim Report of the Commission to Improve Standards of Conduct ("Commission"). This Commission was constituted by House Resolution 9, which was unanimously adopted by the House on February 17, 2022.

This report will be posted for public review on the Commission's website: <https://www.capitol.hawaii.gov/specialcommittee.aspx?comm=cisc&year=2022>

Thank you for your support of this important Commission as we work to improve state government.

Attachment

cc: Senate President Ronald D. Kouchi
Brian L. Takeshita, House Chief Clerk
Rod Tanonaka, House Sergeant-at-Arms
Casey Hines, Director, House Majority Staff Office

March 31, 2022

House of Representatives
Speaker Scott K. Saiki
State Capitol Building
415 S. Beretania Street, Room 431
Honolulu, Hawaii 96813

Re: Commission to Improve Standards of Conduct

Dear Speaker Saiki:

On behalf of the members of the Commission to Improve Standards of Conduct, I am pleased to present to the House of Representatives our Interim Report as requested pursuant to H.R. No. 9, Regular Session of 2022.

After five weeks of passionate discussions concerning recommendations to improve the areas of ethics, campaign finance, open meetings, and fraud and criminal prosecution laws, our Commission has reached a consensus and prepared the enclosed Interim Report. The recommendations are short-term goals to support and improve such laws through legislative bills currently moving through the legislative process, as well as long-term areas of focus to pursue further.

Please proceed with posting this Interim Report online for public review as appropriate, as the public and other invited agencies and organizations will have a role in shaping the Commission's final work product going forward in preparation of the Commission's Final Report. The Commission will continue to work systematically and in earnest toward preparing a Final Report to be submitted to the House of Representatives by December 1, 2022.

Please join me in thanking my fellow Commission members for their diligent participation, hard work, and willingness to share their perspectives. The work they have put forward in the Interim Report will serve as a strong foundation on which to build the Final Report.

If you have any questions or need further assistance please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Daniel R. Foley". The signature is written in a cursive style with a large, stylized 'F' at the end.

Daniel Foley, Chair
Commission to Improve Standards of Conduct

Enc. Interim Report of the Commission to Improve Standards of Conduct

Cc: Robert D. Harris, Vice Chair, Executive Director and General Counsel of the
Hawai'i State Ethics Commission

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission

Sandy Ma, Executive Director of Common Cause Hawaii

Barbara C. Marumoto, former state representative

Janet Mason, League of Women Voters of Hawaii

Florence T. Nakakuni, retired United States Attorney for the District of Hawaii

INTERIM REPORT OF THE COMMISSION TO IMPROVE STANDARDS OF CONDUCT

An Interim Report to the House of Representatives, March 31, 2022

Contents

Introduction	1
Members of the Commission	2
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Introduction

On February 17, 2022, the Hawaii House of Representatives appointed a Commission to consider the purpose of the basic underpinnings of our state governance, specifically the laws surrounding lobbying, ethics, and campaign spending. As a result, the House of Representatives adopted H.R. No. 9 (House Resolution) to establish a Commission to Improve Standards of Conduct (Commission). The Speaker of the House of Representatives appointed seven Commission members representing a broad spectrum of the community, specifically members who have experience serving the public interest at either the federal or state level or representing national nonprofit organizations who have a mission of promoting good government practices and policies.

Appointing the Commission to Improve Standards of Conduct brings to mind our state motto: Ua mau ke ea o ka ‘aina i ka pono. The life of the land is perpetuated in righteousness. This Commission is firmly rooted in the meaning of this motto.

The scope of the Commission is broad and encompasses a review and assessment of existing state laws and rules relating to standards of conduct of public officers and employees, including but not limited to:

- (1) The Code of Ethics under Chapter 84, Hawaii Revised Statutes;
- (2) Lobbying laws under Chapter 97, Hawaii Revised Statutes;
- (3) Campaign finance laws under Chapter 11, Hawaii Revised Statutes; and
- (4) Any other applicable laws and rules.

In addition, the Commission is charged with ensuring that state laws and rules contain clear standards, enforcement mechanisms, and penalties. The Commission is also encouraged to consult with appropriate third parties with expertise in the areas of ethics, campaign finance, and standards of conduct.

The Commission is requested to submit to the House of Representatives an Interim Report of findings and recommendations by March 31, 2022, and a Final Report, including any proposed legislation, by December 1, 2022.

Members of the Commission

The Speaker of the House of Representatives appointed seven members to the Commission who have experience serving the public interest at either the federal or state level or representing national nonprofit organizations who have a mission of promoting good government practices and policies. Pursuant to the House Resolution, the members of the Commission are as follows:

- Daniel R. Foley, Chair, retired state judge
- Robert D. Harris, Vice Chair, Executive Director and General Counsel of the Hawai'i State Ethics Commission
- Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission
- Sandy Ma, Executive Director of Common Cause Hawaii
- Barbara C. Marumoto, former State Representative
- Janet Mason, League of Women Voters of Hawaii
- Florence T. Nakakuni, retired United States Attorney for the District of Hawaii

Background

Corruption on the part of a few public officials recently reared its ugly head in Hawaii. Our citizens deserve better – honest government on the state and county level. To this end, your Commission to improve the standards of conduct on which they operate becomes essential in attempting to identify remedies. Each member of the Commission is keenly aware of the importance of public trust and confidence in public institutions, elected officials, and employees and the need for safeguards against even the appearance of impropriety in government. The Commission members are active participants at the Legislature and the findings and recommendations in this Interim Report have a heavy focus on immediate steps that the Legislature can take.

Recognizing the need for public officials and employees to act with prudence, integrity, and high ethical judgment, the Commission seeks to improve standards of conduct among elected officials and employees as safeguards against the further erosion of public trust and confidence in government, with hopes that restoration and enhancement of public trust and confidence in government will improve the legitimacy, quality, and effectiveness of government actions.

Since the adoption of the House Resolution, the Commission met weekly and engaged in robust discussions on each of the topics identified in the House Resolution. A vital part of the discussions centered on legislation proceeding through the current legislative session relating to ethics, campaign finance, the Sunshine Law, transparency, lobbying, and fraud and criminal prosecution. The Commission's recommendations in this Interim Report is based on legislation still advancing through the legislative process, recognizing the implausibility of introducing new bills this far along in the legislative session.

The goals of the Commission for this Interim Report include not only recommending legislation and improvements to legislation, but also presenting a written record of its discussions, in the hope that the discussions themselves may also serve as a resource for new and experienced public officials and employees. For reference purposes, Appendix B contains the final approved minutes for each meeting of the Commission.

The Commission members were not constrained in their pursuit of measures and legislative proposals to improve and foster public trust and confidence in public officials and employees, and recommendations of each member were raised before the Commission for discussion on the merits and possible adoption. At each meeting, members also suggested amendments to certain legislation in order to refine the Commission's recommendations.

Because the Commission had only five weeks after establishment to submit this Interim Report, members had to be judicious in the scope and depth of their considerations, as well as the process used for deliberation, in order to meet the March 31st deadline. However, the Commission expects to launch a more comprehensive action plan in preparation for its Final Report due on December 1, 2022. Specifically, the Commission plans to establish a process to allow public input on ways to improve standards of conduct for elected officials and employees and consider such feedback in formulating its recommendations in its Final Report.

The Commission will conduct outreach to agencies and organizations, particularly those agencies and organizations identified in the House Resolution, as it moves toward preparation of its Final Report. The Commission anticipates that those agencies and organizations, along with input from the public, will provide valuable insight and perspectives on how the Commission can provide timely, well-informed, and thoroughly considered legislative recommendations to the House of Representatives in preparation for the Regular Session of 2023.

In the months between this Interim Report and the Final Report to be delivered by December 1, 2022, candidates for public office will be elected by the people of Hawaii exercising their fundamental right to vote. Specifically, candidates will fill the seats for the offices of United States Senator, United States Representative, Governor, Lieutenant Governor, the Office of Hawaiian Affairs Board of Trustees, State Senator, State Representative, and various county seats. By any measure, this is a consequential election taking place in a Reapportionment year. Our hope is this Interim Report will add value to the political discussion in which Hawaii faces its public challenges, while building on the opportunities which we highlight in this Report.

Findings and Recommendations

The House Resolution tasks the Commission with submitting an interim report of findings and recommendations to the House of Representatives by March 31, 2022. To this end, the primary focus of the Commission has been to submit recommendations on legislation for action prior to Adjournment Sine Die of the Regular Session of 2022, which is currently scheduled for May 5, 2022. After much deliberation, the Commission voted to adopt this Interim Report and the findings and recommendations provided herein.

Several measures introduced during the Regular Session of 2022, if enacted, may improve existing laws and standards of conduct to enhance and reestablish the public's trust in its elected officials and employees. If these measures are not enacted during the current legislative session then they may be considered as a recommendation in our Final Report and for potential inclusion for bills to be introduced during the Regular Session of 2023. To streamline its focus and have the largest impact in the immediate short-term, the Commission's recommendations are primarily focused on legislation that appears to be moving through the Legislature in the Regular Session of 2022. Therefore, certain measures that did not meet a specific legislative filing deadline, but are nonetheless supported by the Commission, may be taken up as a recommendation in the Final Report if the Commission believes the measure could improve the conduct of public officials.

Further, in light of the fact that Adjournment Sine Die of the Regular Session of 2022 is quickly approaching, the Commission concedes it may not be feasible to adopt or implement these recommendations during this regular session, considering constitutional restrictions on bills, such as subject and title limitations and the three readings requirement in each chamber of the Legislature. The recent Hawaii Supreme Court decision in *League of Women Voters of Honolulu and Common Cause v. State of Hawaii* (SCAP-19-0000372, November 4, 2021) held, among other things, that substantive amendments to bills must be germane to the original purpose of the bill in order to meet the three readings requirement of the Hawaii State Constitution. It is under these constraints that the Commission offers its recommendations.

The recommendations are categorized as follows:

- Areas of immediate focus, covering subjects of fraud and criminal prosecution, openness and transparency, ethics oversight, and campaign reform; and
- Areas of long-term focus, consisting of topics for further consideration by the Commission for its Final Report.

For each recommendation, the Commission endorses a certain action, measure, or particular version of a measure or recommends amendments to enhance the effectiveness and timeliness of implementation of an action or measure. Please note: the following bills may have been, or will be, further amended by either the House, Senate, or Conference Committee prior to the adjournment of the Regular Session of 2022. Thus, bills and/or suggested amendments may only be relevant as of the date of this Report.

Areas of immediate focus

I. Strengthen Investigation and Prosecution of Fraud

State agencies charged with enforcing civil and criminal laws need the capability to promptly and fairly investigate complaints. Fines and other penalties for violations are necessary for accountability and deterrence. We call on the Legislature to pass several measures which support this.

SB2930 SD2: Establishes and funds two new units with the Department of the Attorney General, the Special Investigation and Prosecution Unit and the Sex and Human Trafficking Unit. Of particular interest in this bill is the Special Investigation and Prosecution Unit which is tasked to: (1) Receive, gather, and analyze information; (2) Develop tactical and strategic intelligence; (3) Assist in the control of fraud, white collar crime, and public corruption; (4) Provide technical assistance and training to county law enforcement agencies in the detection and prosecution of fraud and white collar crime, and public corruption; and (5) Provide, with the Attorney General's approval, specialized personnel and technological equipment for the use of law enforcement agencies in the State with respect to fraud, white collar crime, and public corruption.

HB1423 HD1 SD1: Increases the amount of the fine from \$1,000 to \$5,000 for each occurrence or an amount not to exceed three times the amount of an unlawful contribution or expenditure that may be assessed against a noncandidate committee that

makes only independent expenditures (i.e., Super PACs) and has received at least one contribution of more than \$10,000 from any one person or has made expenditures of more than \$10,000 in the aggregate in an election period. Authorizes the Campaign Spending Commission to order that the fine, or any portion of the fine, assessed against a noncandidate committee be paid from the personal funds of the officers of the noncandidate committee.

SB212 SD1: Increases the amount of fines that may be assessed against a noncandidate committee for violations of organizational report requirements and advertisement disclaimer requirements. Increases the fines for noncandidate committees making only independent expenditures (i.e., Super PACs) for advertisement disclaimer violations.

SB665 SD1 HD1: Strengthens campaign finance reform by allowing the Campaign Spending Commission to refer a complaint to the Attorney General or county prosecutor for criminal prosecution in addition to assessing administrative fines. Creates a class C felony for intentionally providing certain false information relating to the payor of a campaign advertisement. Amends the applicable fines related to false advertisements. Increases the disqualification period for holding elective public office from 4 years to 10 years for anyone convicted for a crime involving campaign finance law.

II. Give Openness and Transparency a Boost

Citizens have a right to know what is happening in government, to be able to "see through" what is going on when government officials conduct business. Public records must be accessible while balancing personal privacy. We endorse administrative changes and legislation described here.

Post Legislator Allowance Expenditures Online: The Commission recommends the House of Representatives and Senate consider internal administrative and policy modifications concerning legislative allowance expense reimbursements. To increase transparency and accountability, the Commission recommends each chamber of the Legislature post all legislative allowance expense reimbursements online. Making these reimbursements available for public review would further the goal of increased public trust and confidence in how taxpayer dollars are being spent on official business by legislative members.

SB2143 SD2 HD1: Defines "board packet" and requires each state board to make such packets publicly available at least 48 hours in advance of the board meeting if the board uses such packets.

SB3252 SD2 HD1: Imposes a cap on the costs charged for the reproduction of certain government records and for searching, reviewing, and segregating digital records. Waives the cost of duplication of government records provided in an electronic format. Waives fees when the public interest is served by a digital record disclosure.

Member suggested amendments:

- Vice Chair Harris and Member Izumi-Nitao express some concerns with this measure as currently drafted, specifically, concern over the potential budgetary and capacity impact to the state agency if all fees are waived. They recognize the need for transparency and agree with the general intent, but support a balanced approach that achieves the most efficient and effective solution when considering the information sought and the time, resources, and costs involved by the agency. Communication to the requestor regarding the time and cost of the response is also a practice that state agencies should adhere to. One possible solution might be to provide funding to the Office of Information Practices that can be reimbursed to a particular agency if the Office determines the information request is in the public interest.
- Member Ma also suggests reverting to the language in the SD2 version of this measure, which does the above, but also waives reproduction costs for the first 100 pages if disclosure is in the public interest.

SB3172 SD1 HD1: Requires any electronic audio or visual recordings of board meetings to be maintained as a public record, while still requiring written minutes.

Suggested amendments of the Commission:

- If the meeting is recorded, the Commission suggests requiring the board to archive the government record on an easily accessible and publicly available website with free access.
- Suggestions as to providing a time stamp or other reference, when the board has a recording of the meeting, indicating when in the recording the board began discussion of each agenda item and when motions and votes

were made by the board may also assuage concerns by various state agencies as to providing full meeting minutes.

III. Serve the Public Interest with Ethical Awareness and Oversight

Maintaining public confidence in government requires elected and appointed government officials and lobbyists who do business with them to follow rules about acceptable behavior. We believe the measures described herein advance this goal.

HB1475 HD1: Requires all state employees to complete ethics training either live or online within 90 days of the start of employment and at least once every four years thereafter. Requires existing state legislators and employees who have not received ethics training within the immediately preceding three years to complete live or online ethics training within 12 months of the Act's effective date and then again at least once every four years thereafter.

Member suggested amendments:

- Member Ma is supportive of this measure but would prefer that training be conducted for each employee annually given that the training programs are offered online and in addition, establish consequences or a penalty for individuals that do not complete the training when required.

HB2069 HD2: Creates procedures for the custody, inventory, and care of protocol gifts received by the State. Requires the creation of a publicly available written record and ongoing maintenance of the gift.

Member suggested amendments:

- Member Ma suggests that, within thirty days of receipt, protocol gifts be deposited to the Hawaii State Archives, rather than retained or displayed. Allowing a recipient of a foreign protocol gift to maintain such a gift, despite its eventual deposit into the Hawaii State archives, could create murky ethical issues.

IV. Reduce the Power of Money in Politics

We recommend that the practice of raising campaign donations during session end. We also endorse periodic review of existing limits for expenditures as described in several measures we support.

SB555 SD1: Prohibits legislators and employees or persons acting on behalf of a legislator from holding any fundraiser during a regular or special session of the Legislature.

Suggested amendments:

- Expand the prohibition to include candidates for legislative seats and also prohibit the solicitation and acceptance of contributions or donations by legislators or candidates during session.
- Member Ma further suggests prohibiting legislators, during session, regular or special, from receiving contributions or depositing or using any contribution of money that was not deposited prior to the legislative session. Such a prohibition should be applied to every statewide elected position and person seeking such office.

HB1888 HD2: Restores the threshold amount of aggregated expenditures that requires disclosures of electioneering communications from \$1,000 to \$2,000. Modifies the disclosure date of electioneering communications to coincide with the distribution of the electioneering communication. Restores the requirement that subsequent distributions of electioneering communications be reported once the \$2,000 threshold has been met. Exempts news stories or editorials published by electronic means from being considered electioneering communications. Repeals the actual expenditures exception from the definition of electioneering communications.

Member suggested amendments:

- Member Izumi-Nitao and Member Ma suggest restoring the requirement to file a Statement of Information for Electioneering Communications to include candidate committees.

HB1426 HD1 SD1: Provides that a person waives the right to a contested case hearing if the person fails to request a contested case hearing within 20 days of receipt of the Commission's preliminary determination. Gives the Campaign Spending Commission the ability to have their order confirmed as an enforceable judgment of the Circuit Court in addition to contempt proceedings.

HB1427 HD1: Emphasizes that candidates are not required to file preliminary general reports if they are either unsuccessful or are elected to office in the primary election because such candidates are not on the ballot. Clarifies the aggregating contribution and expenditure amounts that determine when a committee needs to only file the final election period report.

SB2043 HD1: Repeals references in the campaign spending law that have been previously repealed in 2018.

Areas of Long-Term Focus

V. Other topics to be considered by the Commission for its Final Report

In contemplation of its Final Report to be submitted to the House of Representatives by December 1, 2022, the Commission is exploring long-term areas of concern to focus on for its Final Report. The following non-exhaustive list of topics are mere suggestions at the time of publishing this Interim Report and are subject to later refinement. The preliminary list of topics that the Commission intends to analyze further and seek feedback on before addressing its recommendations in its Final Report are to include, but not be limited to, the following:

- Increased Criminal Penalties and Investigative Tools for State and County Law Enforcement Agencies to Address Fraud and Public Corruption
- Public Funding of Elections
- Term Limits
- Election Reform, including Ranked Choice Voting and Top Two Primaries
- Campaign Contribution and Expenditure Restrictions
- Voter Education, including a voter pamphlet with a link to campaign spending information about candidates and candidate committees

Appendix D - Interim Report

- Lobbyist Reforms, including requiring and publishing financial and gift disclosures, documenting and publishing lobbyists' meetings with legislators, ethics training for lobbyists, creation of lobbyist visitor logs, adding a lobbyist's passport-type photo to their registration, disclosure of specific bills an individual lobbyist supported or opposed
- Senate and House Rules, including disclosure of the individual or entity that requests a legislator to introduce a bill "by request"
- Legislative Grants-In-Aid Framework and Process
- Constitutional Amendments
- Reporting and Disclosure Exemptions
- Gift Reporting Requirements
- Expansion of Conflict of Interest Provisions
- Establishment of Baseline Budget Guidelines for the following state agencies: Ethics Commission, Campaign Spending Commission, Auditor, and Ombudsman
- Legislation from the Regular Session of 2022 that did not meet the criteria for inclusion in the Interim Report

Appendices

- Appendix A – House Resolution No. 9, Regular Session of 2022

- Appendix B – Meeting Notes
 - February 22, 2022
 - March 2, 2022
 - March 10, 2022
 - March 16, 2022
 - March 24, 2022

Appendix A

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.R. NO. 9

HOUSE RESOLUTION

ESTABLISHING A COMMISSION TO IMPROVE STANDARDS OF CONDUCT.

1 WHEREAS, the strength and stability of our democratic
2 government rely on the public's trust in the government's
3 institutions and officers to act with prudence, integrity, and
4 good, ethical judgment; and
5

6 WHEREAS, this body recognizes the consequences of a loss of
7 public trust in governmental institutions and their officers and
8 the resultant threats posed to an orderly, effective government;
9 and
10

11 WHEREAS, this body notes that certain safeguards, including
12 ethics, lobbying, and campaign spending laws, are in place to
13 prevent this loss of public confidence in and good reputation of
14 governmental institutions and their officers; now, therefore,
15

16 BE IT RESOLVED by the House of Representatives of the
17 Thirty-first Legislature of the State of Hawaii, Regular Session
18 of 2022, that a Commission to Improve Standards of Conduct is
19 hereby established; and
20

21 BE IT FURTHER RESOLVED that the purpose and duties of the
22 Commission shall be to:
23

24 (1) Review and assess existing state laws and rules
25 relating to standards of conduct of public officers
26 and employees, including but not limited to:
27

28 (A) The Code of Ethics under chapter 84, Hawaii
29 Revised Statutes;
30

31 (B) Lobbying laws under chapter 97, Hawaii Revised
32 Statutes;
33



H.R. NO. 9

- 1 (C) Campaign finance laws under chapter 11, Hawaii
- 2 Revised Statutes; and
- 3
- 4 (D) Any other applicable laws and rules;
- 5
- 6 (2) Ensure the state laws and rules reviewed and assessed
- 7 pursuant to paragraph (1) contain clear standards,
- 8 enforcement, and penalties; and
- 9
- 10 (3) Provide recommendations to further the goals of the
- 11 Code of Ethics, lobbying laws, campaign finance laws,
- 12 and other applicable laws and rules that will increase
- 13 awareness of, compliance with, and deterrent effects
- 14 of those laws and rules; and
- 15

16 BE IT FURTHER RESOLVED that the Commission consist of the
 17 following seven members who shall be appointed by the Speaker of
 18 the House of Representatives:

- 19
- 20 (1) Judge Daniel R. Foley (Ret.), who shall serve as
- 21 chair;
- 22
- 23 (2) Robert D. Harris, Executive Director of the State
- 24 Ethics Commission;
- 25
- 26 (3) Kristin E. Izumi-Nitao, Executive Director of the
- 27 Campaign Spending Commission;
- 28
- 29 (4) Sandy Ma, Executive Director of Common Cause Hawaii;
- 30
- 31 (5) Barbara C. Marumoto, Former State Representative;
- 32
- 33 (6) Janet Mason, League of Women Voters of Hawaii; and
- 34
- 35 (7) Florence T. Nakakuni, Former U.S. Attorney for the
- 36 District of Hawaii; and
- 37

38 BE IT FURTHER RESOLVED that the Commission is requested to
 39 consult with the Department of the Attorney General and public
 40 interest organizations with expertise in the areas of ethics,
 41 campaign finance, and standards of conduct, such as the National
 42 Conference of State Legislatures, Council of State Governments,



1 and Brennan Center for Justice at the New York University School
2 of Law; and

3
4 BE IT FURTHER RESOLVED that the Commission is requested to
5 submit an interim report of findings and recommendations,
6 including any proposed legislation, to the House of
7 Representatives by March 31, 2022, and a final report, including
8 any proposed legislation, to the House of Representatives by
9 December 1, 2022; and

10
11 BE IT FURTHER RESOLVED that certified copies of this
12 Resolution be transmitted to Robert D. Harris, Executive
13 Director of the Hawaii State Ethics Commission; the Chair of the
14 Hawaii State Ethics Commission; Kristin E. Izumi-Nitao,
15 Executive Director of the Campaign Spending Commission; Holly T.
16 Shikada, Acting Attorney General; the Chair of the Campaign
17 Spending Commission; Tim Storey, Executive Director of the
18 National Conference of State Legislatures; the Executive
19 Director of the Council of State Governments; the President of
20 the Brennan Center for Justice; Sandy Ma, Executive Director of
21 Common Cause Hawaii; the Board of the League of Women Voters of
22 Hawaii; Judge Daniel R. Foley (Ret.); Florence T. Nakakuni;
23 Barbara C. Marumoto; and Janet Mason.

24
25
26
OFFERED BY: _____

[Handwritten Signature]

FEB 17 2022



Commission to Improve Standards of Conduct

On February 17, 2022, the House of Representatives adopted House Resolution 9, to establish a Commission to Improve Standards of Conduct (Commission). The scope of the Commission is broad and encompasses a review and assessment of existing state laws and rules relating to standards of conduct of public officers and employees, including but not limited to:

- (A) The Code of Ethics under chapter 84, Hawaii Revised Statutes;
- (B) Lobbying laws under chapter 97, Hawaii Revised Statutes;
- (C) Campaign finance laws under chapter 11, Hawaii Revised Statutes; and
- (D) Any other applicable laws and rules.

In addition, the Commission is charged with the goal of ensuring that state laws and rules contain clear standards, enforcement mechanisms, and penalties. The Commission is also encouraged to consult with appropriate third parties with expertise in the areas of ethics, campaign finance, and standards of conduct.

The Commission is requested to submit an interim report of findings and recommendations to the Legislature by March 31, 2022, and a final report by December 1, 2022. These reports should include any proposed legislation of the Commission.

February 22, 2022, Meeting Agenda:

1. Commission Members.

Judge Daniel R. Foley (Ret.), who shall serve as chair;

Robert D. Harris, Executive Director of the State Ethics Commission;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Sandy Ma, Executive Director of Common Cause Hawaii;

Barbara C. Marumoto, Former State Representative;

Janet Mason, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii; and

Members introduced themselves and provided a brief explanation of their professional background.

2. Selection of Vice Chair of the Commission.

MEMBER IZUMI-NITAO and MEMBER MASON nominated member Harris to serve as Vice Chair of the Commission. The nomination was approved unanimously.

3. General thoughts of the Commissioners on H.R. No. 9 and how the Commission should proceed.

MEMBER MASON: Resolution language has a broad scope, so there is flexibility to allow the Commission to proceed as it sees fit. Interim report deadline is tight.

MEMBER HARRIS: Mandatory ethics training for all state employees is currently in the Legislature. It's an expansion to existing law. Legislative allowance records proposed to be placed online, but that doesn't really require legislative action.

MEMBER IZUMI-NITAO: More robust deterrent is needed in the area of criminal law and prosecution if public corruption is to be addressed on a state/county level per H.R. No. 9. Consider SB2930 which is currently before the Legislature. Public transparency, accountability, etc., need to be paramount considerations of the Commission as well. Review state, county resources to prosecute and compare to federal authority.

MEMBER NAKAKUNI: Federal agencies all have unique expertise to investigate such crimes, some proactive pursuits. State agencies are more reactive. No special expertise currently exists at State/County level. State agencies could develop an expertise, but would take some time and resources. Need a forensic and fraud expertise.

Obstruction of justice, bribery statutes at state level do not have enough teeth. 10 years and \$25k for state statutes. Federal statutes 20 years and \$250k.

HPD White Collar section is small and appears to have other priorities at the time.

State needs to establish stronger laws and administrative sanctions.

MEMBER MA: Common Cause looked more at revamping the legislative structure of power and concentration of power. Powers of chairs to select bills and defer bills unilaterally. What changes can be made in the Legislative Rules? We created the following list of 15 proposed changes:

List of reforms:

- Establish legislative rules so that Committee Chairs do not have discretionary power to schedule bills for hearing, kill bills, and/or amend bills without first providing amendments to the Committee and public for review and thorough discussion.
- Establish term-limits for Legislative Leaders and Committee Chairs.
- Establish a process for removal of Legislative Leaders and Committee Chairs.

Appendix D - Interim Report

- Require every elected official to report monthly a lobbyist meeting disclosure contact log.
- Require monthly public disclosures by lobbyists.
- Prohibit legislators from working as lobbyists or for lobbying entities.
- Prohibit lobbyists from fundraising for candidates. If you are a lobbyist, you cannot fundraise for a candidate by holding fundraisers or bundling contributions, and if you fundraise, you cannot lobby. Lobbyists may still donate subject to the contribution limits.
- Prohibit lobbyists who are advising the campaign of any sitting elected official, running for re-election or higher office, from representing any entities under the jurisdiction of the committees that the elected officials are sitting on.
- Ban fundraisers during session [SB555](#).
- Ban contributions to elected officials from entities under the jurisdiction of the committees that they are sitting on.
- Publicly disclose legislators' allowance expenditures.
- Pass legislation to create small donation-matching public financing program and/or fully fund the Hawaii Election Campaign Fund for our partial public funding of elections.
- Pass legislation to strengthen disclosure of campaign contributions and dark money contributions, such as [HB1881](#) / [SB3164](#).
- Not have Hawaii Auditor's Office, Campaign Spending Commission, and Ethics Commission funding be controlled by legislature and remove political partisanship and personal rancor from legislative dealings with government oversight agencies.
- Ban pay to play

MEMBER MARUMOTO: Changing the House Rules would be beneficial but accomplishing that could be challenging.

State agencies may need more resources to enforce existing laws. Prosecuting a few could lead to a deterrent for other Legislators.

[Is the Legislature Corrupt 2-18-22.pdf](#)

CHAIR FOLEY: Civil Beat has recently published articles by former Senator Gary Hooser, former LG candidate Kim Coco Iwamoto, former legislator Charles Djou, and Neal Milner. Below are links to the articles from Djou and Milner.

<https://www.civilbeat.org/2022/02/reform-hawaii-elections-to-stop-local-corruption/>

<https://www.civilbeat.org/2022/02/neal-milner-bribery-is-shameful-but-legal-influence-peddling-is-a-bigger-problem/>

I was personally involved with researching and litigating First Amendment issues relating to political campaigns. We must be mindful of certain First Amendment issues as those raised in *Citizens United* when we make our recommendations.

This Commission has a golden opportunity to provide some input with the Legislature to try and make a difference to improve the law.

4. Commissioners that represent organizations report on any measures that they have been proposing or supporting in the legislature that come within the scope of H.R. No. 9.

MEMBER MASON: Will provide an excel spreadsheet with 28 measures they are tracking. In addition, on February 14th an email was sent to all 76 legislators with additional suggestions regarding future legislation and rule changes. We recommended positions on current legislation, including passing the entire campaign spending package.

MEMBER NAKAKUNI: Fed wire transfer involved an electronic transmission of the annual Gift Disclosure Statement to the Hawaii Ethics Commission. Fed utilizes a cooperative informant strategy plan in order to get credible evidence to prosecute.

MEMBER HARRIS: End of March report needs to be prepared rather quickly, consider invitations to a few people to come talk to Commission. AG's office, etc.

MEMBER IZUMI-NITAO: CSC package has 5 bills this year. HB1423/SB2044, deals with increasing rate of fines for Super PACs. HB1424/SB2043, housekeeping measure. HB1425/SB2042, electioneering communications increase to \$2k and make reoccurring. HB1426/SB2041, involves about a dozen noncompliant individuals with the Campaign finance laws. Helps civil recovery of fines. HB1427/SB2040, exempts candidates who either lose or are elected into office in a primary election from filing preliminary general reports. SB555 SD1 (not a CSC bill), bans fundraisers during a legislative session.

MEMBER MA: Common Cause is supporting SB3164 regarding campaign finance and it moved out of the Senate committee. The House companion HB1881 is dead.

5. What should the Commission attempt to achieve and report on by March 31, 2022, and then afterwards by December 1, 2022.

CHAIR FOLEY: List of measures for March report from the four agency/organization members of the Commission are focusing on for this current session would be a good place to start.

Part of the report will be about educating legislators. History, then recommendations. MEMBER NAKAKUNI to try and include a background of what Fed, state, county currently does and their differences in approaching enforcement and prosecution.

Members should start to consider who to target to talk with us. We also need to consider further how to open up discussions to the public?

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MEMBER MARUMOTO: Bill to ban fundraisers during session should be pursued and consideration for the ban to be extended a couple months before and after session should also be given some thought. Charles Djou provided an article to me about this issue.

MEMBER MA: National agencies could be a resource to pursue input, such as the Brennan Center for Justice and Campaign Legal Center. Understanding that following the Sunshine Law may be challenging to meet the interim report deadline of March 31st, for public participation we could follow for now the current House Rules for noticing meetings, e.g., issue a notice 48 hours in advance of meeting, provide a meeting notice in advance. Further thought needs to be considered for more public participation after March 31st.

MEMBER MARUMOTO: More direct input from the public should be considered at some point in our process. The issue of secrecy and unlimited donations surrounding Super PAC's is also a concern of mine, but I understand that the holding in *Citizens United* may present challenges to accomplishing that.

CHAIR FOLEY: Open public forums are probably more practical after the interim report deadline of March 31st. We should be open, transparent and invite groups. I offer to MEMBER MA and MEMBER MASON to consider public input further and bring a proposal to the Commission to consider.

MEMBER IZUMI-NITAO: Offer the public the opportunity to identify bills in play this session that the Commission should consider.

MEMBER NAKAKUNI: Resolution just calls for the Commission to provide an interim report with proposed legislation to meet the March 31 deadline. Time constraints to allow for complete dialogue and discussion will make that deadline a challenge.

CHAIR FOLEY: Identify for next meeting what we are proposing to accomplish and what is feasible before March 31st. What specific measures to support? Lists of people to target to assist the Commission.

MEMBER MA: Propose how to hold public meetings.

MEMBER NAKAKUNI: Will begin to look into background info for the report. Will take initiative now on any Commission issues to develop information and suggestions.

MEMBER IZUMI-NITAO: Will help as well.

MEMBER MASON: What topics should be considered for the March 31st report?

CHAIR FOLEY: We should consider digestible topics to group for March 31 report and then to consider for Dec. 1 report.

We will distribute draft meeting notes to entire group for input, revising, and finalization prior to making them publicly available.

MEMBER MARUMOTO: Constitutional changes can be recommended. 1978 Con Con adopted the Constitutional 48 hour Final Reading requirement to prevent separate readings 10 minutes apart on separate days, e.g., 11:55pm day one and 12:05am on day two.

6. How to proceed in writing the two Commission reports.

CHAIR FOLEY: Any of the commission members are free to assist in the process of preparing the reports of the Commission. The reports will be made available for review prior to being made available to the public.

7. What groups, organizations, offices, agencies, persons, etc., should be targeted or solicited for input and suggestions to Commission.

CHAIR FOLEY: Resolution identifies a few entities to consider, the AG's, NCSL, CSG. and Brennan Center for Justice. However, the Commission is not confined to any particular entity or individual or organization to talk with. In addition, members are free to discuss the Commission's progress and actions freely and openly.

8. Should the Commission solicit input from the general public, and if so, how.

MEMBER MA and MEMBER MASON to consider further this opportunity and provide a recommendation for the Commission to consider.

9. Any other matters.

CHAIR FOLEY: When would the four agencies/organizations be ready to share their information with the Commission?

Consensus from MEMBERS MA, IZUMI-NITAO, HARRIS, AND MASON is that their information would be ready to share within one week.

In report, we can explain that the Commission supports the intent of a pending bill, and suggest the following amendments.

No member of this Commission should be constrained from putting forward anything that they feel is important.

MEMBER IZUMI-NITAO: SB2930 is a measure to provide greater enforcement.

10. Next steps and meeting date.

Next meeting Wednesday March 3rd at 2:30pm.

11. Final thoughts:

MEMBER MA: Will push forward for public participation.

MEMBER NAKAKUNI: Looking forward to working with everyone.

MEMBER HARRIS: Enjoy working with all of you. Would also offer my office to assist with work flow and also listen in to the discussion and take notes.

MEMBER MARUMOTO: Impressed with this group. This is interesting work considering my background and experiences.

MEMBER MASON: I'm optimistic about the impact this Commission can have and am looking forward to participating and making a difference with this Commission.

Commission to Improve Standards of Conduct:

March 2, 2022, Meeting:

All of the members of the Commission were in attendance:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Sandy Ma, Executive Director of Common Cause Hawaii (arrived 15-20 minutes late due to a prior commitment);

Barbara C. Marumoto, Former State Representative (arrived 20-30 late due to technical issues);

Janet Mason, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii;

1. Review and approve prior meeting notes

Chair moved to adopt prior meeting notes. Motion was seconded and adopted.

2. Campaign Spending Commission list of measures

MEMBER IZUMI-NITAO: Campaign Spending Commission (CSC) has a 5 bill package submitted to the Legislature that it is supporting, but also support other measures outside of our package. She asked Chair Foley on how she should proceed with this presentation to the Commission.

CHAIR FOLEY: The Commission should establish and prioritize short range and long range goals for the Commission to recommend in its Reports. Commission can pursue recommending the adoption of the CSC package of bills and as well as any other bills supported by the other organizations or members of this Commission.

MEMBER IZUMI-NITAO: That would be appreciated. From CSC's list of 3 items, item 1 is a list of House bills and item 2 is a list of Senate bills that concern campaign finance and are sponsored by CSC or by others. These bills would be considered immediate short term goals. The considerations listed under item 3 (except SB555) are more long term goals. For purposes of the Interim Report due on March 31st, my suggestion would be for the

Commission to consider recommending support or opposition for the bills contained in items 1 and 2.

If the Commission is going to address more robust efforts at criminal deterrents, the CSC also likes SB2930 ([Measure Status \(hawaii.gov\)](#)) which is a good measure.

In addition, this Commission may want to consider a future measure to prohibit legislators from buying 2 tickets to another legislator's fundraiser. This practice can lead to expansive war chests for legislators running for re-election and garner support from their colleagues for their bills or issues.

CHAIR FOLEY: We should start to collectively focus on those bills that are supported by members of the Commission in an effort to vote on these legislative proposals as soon as there seems to be agreement amongst the group to help facilitate preparing the interim report since time is very limited.

MEMBER IZUMI-NITAO: SB2291 ([Measure Status \(hawaii.gov\)](#)), is also a bill we should be aware of as it would make government entities get a search warrant to obtain certain records.

MEMBER NAKAKUNI: I can take a look at that bill.

VICE CHAIR HARRIS: Maybe we can consider opposing such a measure?

MEMBER MA: SB555 ([Measure Status \(hawaii.gov\)](#)) does not go far enough. Perhaps prohibiting legislators from taking campaign contributions during session can also be a consideration to amend SB555 to make it more impactful.

CHAIR FOLEY: Would propose to MEMBER MA to suggest amendments to the legislation and to put forth a recommended bill draft for the group to consider.

3. Ethics Commission discussion topics

VICE CHAIR HARRIS: Nancy Neuffer and Jennifer Yamanuha are Hawaii Ethics Commission (HEC) staff joining our meeting to help me facilitate my contributions to this Commission. Thank you for allowing me to invite them into our meeting and they would be available to assist in any way they can.

Near term HB1475 ([Measure Status \(hawaii.gov\)](#)) is a measure we are in support of and it is moving through House. Senate bill companion, SB2039 ([Measure Status \(hawaii.gov\)](#)) has not moved. The measure requires mandatory ethics training for all employees within 90 days of employment and continually every 4 years thereafter.

Near term recommendation would be to require that legislative allowance records be made accessible online. That practice would promote transparency and user friendliness and go to furthering public trust on how taxpayer monies are being spent by legislators.

Also recommend opposing bills such as SB2123 ([Measure Status \(hawaii.gov\)](#)), which would reduce public financial disclosure requirements for certain volunteer members of Boards and Commissions. This bill may be deferred for the year, but it may be worthwhile to emphasize the importance of public access to this type of information.

CHAIR FOLEY: In past years at the Legislature the content from some measures that have failed to meet certain filing deadlines have had an ability for the content to be revived through other measures that were moving through the Legislative process, however, with the recent Supreme Court Ruling in *League of Women Voters* that process may not occur. Regardless of whether certain priorities of the Commission are advancing we can still provide such recommendations in our Interim Report and then for those recommendations that don't make it this session, we can reassert those recommendations in the Final Report in December and for those measures to be introduced in the 2023 Regular Session.

VICE CHAIR HARRIS: HB2500 is the funding bill for Ethics Commission. It's important because it funds a full-time investigator for the Ethics Commission. Something the office has not previously had.

4. Common Cause list of bills and proposals for outreach

CHAIR FOLEY: Focus of this Commission should be on the 3 areas addressed in House Resolution No. 9 that was adopted ([Measure Status \(hawaii.gov\)](#)), namely the existing laws pertaining to ethics, lobbying, and campaign finance.

MEMBER MA: Common Cause Hawaii (CCHI) supports the ethics training bill and several of the other agency bills of HEC and CSC. Unfortunately, as an organization we often have to spend a lot of time testifying on what may be referred to as bad bills from a point of public concern. E.g., Sunshine bill exemptions, gift bills, donation of excess money from candidate committees, etc. It takes a lot of resources to monitor when these initiatives reappear year after year.

CHAIR FOLEY: Seems like there is a concern from CCHI that there are reoccurring bills that tend to weaken ethics, campaign, sunshine, etc., something that is contrary to motivation of this Commission. Maybe we should consider including a statement in the report saying to refrain from such bills each year.

Some suggestions in the CCHI's list appear to more long-term goals such as rule changes to the respective chambers. I would encourage MEMBER MA to research or review any particular model rules from other state legislatures in this regard that could potentially be used as an example.

MEMBER MA: I am not aware of another jurisdiction that would have legislatures that could serve as a gold standard or benchmark for Hawaii to follow in regard to ethics, lobbying, and campaign spending. I will inquire with Common Cause nationally.

CHAIR FOLEY: Some of these issues identified by CCHI can be included in both the Interim and Final reports.

5. League of Women Voters suggestions

MEMBER MASON: The League of Women Voters (LWV) measures are short-term goals. However, our agenda also includes topics for long-term consideration.

We oppose legalized gambling each year (such as HB2485, ([Measure Status \(hawaii.gov\)](#))) and they keep reappearing. So similar to MEMBER MA's point, it does take a lot of time and resources to ensure our position on such measures is submitted as testimony for the official record.

LWV is aiming to have digital copies of voter education pamphlets become required. Our testimony was that such pamphlets should include a hyperlink to the CSC website in both the paper and digital copies of the pamphlets. This would allow voters to review who candidates are receiving money contributions from and how much money they are receiving.

LWV opposes SB2417 SD1 ([Measure Status \(hawaii.gov\)](#)), Relating to Elections, which aims to increase cap the amount of campaign funds that candidates may donate to community organizations to \$6,000 for two-year offices, \$12,000 for four-year non-statewide offices, and \$18,000 to four-year statewide offices.

Clarification of germaneness on how 'transparency' bills fit into our work should occur. There are many "transparency" type bills that focus on erosion of Open Meetings laws and Uniform Information Practices Act laws that the Commission may want to consider discussing.

LWV is committed to protecting disclosure laws and we support Chapter 84, HRS, ethics enforcement bills.

CHAIR FOLEY: I would request that the lists of the four organizational members that were submitted to analyzed against one another to identify areas of common interest and position in the areas of ethics, campaign spending, and lobbying that overlap similar positions as CCHI, Ethics Commission, CSC, and LWV. This will help to potentially have something to act on this session. The Interim Report can also identify long-term topics that Commission will pursue further in its Final Report, but those would more or less just be mentioned briefly in the Interim Report. The Interim Report can serve as a basis to solicit public comment and feedback on its interim recommendations. Our goal should be to

circulate a Draft Interim Report in about 3 weeks to give the group enough time to review and amend in order to gain a consensus of support.

6. Proposals from MEMBER MARUMOTO

MEMBER MARUMOTO: Legislators sometimes will make gifts to community organizations from excess campaign funds because they are retiring or resigning from their elected office. Increasing the capped amounts could prove beneficial to certain community organizations in those instances. When I resigned from public office, I gave my excess money to fund public education and it helped a lot.

CHAIR FOLEY: Something to consider would be if incumbent candidates give excess campaign money to community groups when they are not resigning and are potentially seeking re-election to their current office or seeking election to a higher public office.

MEMBER MARUMOTO: I believe strongly that state agencies need tools and resources to pursue fraud and abuse. State needs to provide resources and funding at the state level to establish stronger laws and enforcement agencies to prevent abuse such as a fraud. Last week MEMBER NAKAKUNI addressed the potential disparity between federal and state and county operations to criminally enforce such laws, I think SB2930 to establish a new unit in the AG's office to criminalize instances of fraud abuse and human trafficking is a measure going in the right direction.

7. Proposals from MEMBER NAKAKUNI

MEMBER NAKAKUNI: SB2930 creates a special investigative fraud and human trafficking unit in the AG's. AG's supported the bill.

HB2474 ([Measure Status \(hawaii.gov\)](#)) is a measure that allows the CSC to refer complaints to AG's and Prosecutor's office.

SB665 ([Measure Status \(hawaii.gov\)](#)) is a measure that criminalizes certain false information pertaining to the name or address of a campaign advertisement.

8. Administrative matters for report purposes

The question as to whether the information and resources submitted by the organizational members between the first and second meetings was for the purpose of preparing for today's meeting and discussion or whether it was intended to be attached to the reports was discussed by the Commission. Determination was that the information was intended for meeting discussion purposes, rather than to become an appendix to the report.

MEMBER MA: SB3164 ([Measure Status \(hawaii.gov\)](#)), SB3252 ([Measure Status \(hawaii.gov\)](#)), SB2143 ([Measure Status \(hawaii.gov\)](#)), HB2026 ([Measure Status \(hawaii.gov\)](#)) are all positive

measures for transparency and accountability that we are following and supporting and are positioned to crossover to the opposing chamber next week.

CHAIR FOLEY: Even if bills are dead this legislative session, we can still mention in the Interim Report those bills if there is a consensus from our group that those are good bills that would have improved standards of conduct relating to ethics, lobbying, and campaign spending.

MEMBER IZUMI-NITAO: HB1423 ([Measure Status \(hawaii.gov\)](#)) is a good bill that CSC is supporting and it already passed the House and is awaiting referral to committee in the Senate.

MEMBER MA: What if there is not a unanimous agreement of the members about whether to support or recommend a bill to improve the standards of conduct pertaining to ethics, lobbying, or campaign spending?

CHAIR FOLEY: From my experience and involvement with other commissions or committees, there are several ways to approach that issue. One option is to identify in the report where a member disagrees with the majority of the Commission and the other option would be if a member does not support a measure put forward a minority report that explains the reasoning and position as to why he or she could not support the majority recommendation.

MEMBER MA: One such example of that would be SB3164 ([Measure Status \(hawaii.gov\)](#)) and its House companion ([Measure Status \(hawaii.gov\)](#)). We see those measures differently than CSC.

MEMBER MARUMOTO: We also need to keep in mind that the current language is measures can change drastically over the course of the legislative session. So, although you may not support the current language, your testimony in future hearings could result in a change in your position on the bill. In previous years when I was in office, there was a wide discretion in changing the content of bills and in at least one instance it led me to voting against a bill I authored at the start of session.

9. Preparation and objectives of Interim Report due March 31st

CHAIR FOLEY: With the pending urgency to meet our Interim Report deadline of March 31st, I would request that members come up with a list of bill recommendations that can be achieved in the short-term for purposes of inclusion in the Interim Report. Other long-term recommendations can be topics considered for the Final Report in December and prior to our Final Report we could consider seeking input from the public, others who the group feel would be good to talk with, and perhaps vote next week we can vote on a list of recommendations that the group will either support or oppose.

MEMBER MARUMOTO: Would it be feasible for Speaker to know what bills we look favorably upon?

CHAIR FOLEY: We should probably wait until the interim Report comes out. Speaker could review that report along with any other interested parties.

Recommendations not acted upon by the Legislature this session will be recommendations included in the Final Report. The Final Report will have a lot of duplication from the Interim Report because the Interim Report will serve as the basis or template for the Final Report. We should not be discouraged from the success or lack of success of the recommendations we make in our Interim Report.

VICE CHAIR HARRIS: These recommendations should make clear that our report is focused on immediate near term measures that can make a difference in improving standards of conduct in the areas of ethics, lobbying, and campaign spending. Other concepts that may require more discussion and development should be deferred to the Final Report.

CHAIR FOLEY: Term limits are long term items that we should be considered for the Final Report.

10. Other Matters

CHAIR FOLEY: Majority Leader Belatti has invited me to appear on the Majority Caucus' *Talk Story with House Majority* livestream interview series. I will not specifically mention details of what topics or measures the Commission will be supporting or attribute any positions or commentary to any specific members of this group, but I wanted to ask the group if anyone has concerns with me doing this interview?

VICE CHAIR HARRIS: With the limitations you mentioned, I have no concerns about your participation in this interview and would support you.

CHAIR FOLEY: Seeing no objections or other concerns raised by the members, I will let Majority Leader Belatti know that I will accept her invitation for this interview.

MEMBER IZUMI-NITAO: In consideration of comments from the public and looking more broadly at the issues of addressing public corruption, there are other bills like SB2162 ([Measure Status \(hawaii.gov\)](https://www.hawaii.gov/measure-status/)) which is a ranked choice voting bill that this Commission may consider supporting.

MEMBER MA: This is a CCHI priority bill; it only deals with special federal elections and special elections of vacant county council seats.

MEMBER IZUMI-NITAO: There is also the consideration that the state level prosecution of fraud and abuse needs to be bolstered to combat public corruption. Is there an update on this matter?

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MEMBER NAKAKUNI: Since last meeting I looked at what Federal, State, and county authorities are doing and have talked with some of those appropriate parties, but for purposes of submitting any information or recommendations to this Commission the request was for that to be completed for preparation of the Final Report. I will be pursuing that for purposes of the Final Report, which is really only eight months away.

CHAIR FOLEY: Seems like from the comments so far, there is a consensus for the need to revamp or ramp up state level enforcement and resources for fraud abuse and we can discuss that in the Interim Report.

MEMBER MASON: Are we adopting the Chatham Rule so that members can discuss the Commission's work openly, but without any attribution to whose idea or spoke of the recommendation?

VICE CHAIR HARRIS: Chatham Rule will encourage discussions by allowing some give and take without fear of being held accountable. Without the Chatham Rule, there may be a natural desire to avoid compromise and candid discussion of the issues.

CHAIR FOLEY: I will follow the Chatham Rule in the interview with Majority Leader Belatti.

MEMBER MA: If this was a live public Zoom, the Chatham Rule would not apply because the public would openly see which points are attributed to a particular speaker.

CHAIR FOLEY: For purposes of meeting minute preparations at this point in the process, we will continue with speaker attribution in the meeting notes but allow for a member to remove a statement attributed to them.

VICE CHAIR HARRIS: I understand the concern for transparency.

To the extent this Commission is considering a focus on fraud and criminal activity, members should be aware that an anonymous fraud hotline was set up by the Attorney General's office and the Ethics Commission. Our report might attempt to highlight and educate the public that there is an existing mechanism to report suspected issues of fraud and investigations are actively done.

MEMBER MASON: MEMBER MA and I prepared a proposal for public participation in our Commission work, to be organized through the House website. None of the three recent examples of the House of Representatives of the Mauna Kea Working Group, Special Investigation of the audits of the Department of Land and Natural Resources and Agribusiness Development Corporation, or Select Committee pertaining to Representative Har would work for our group.

Therefore, we have the following seven recommendations:

- Use House website to host our Commission;
- Operate pursuant to House Rule 11.5 (1) pertaining to Committee Meetings;

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- Utilize a YouTube channel to livestream our meetings and also archive each meeting;
- Propose to publish meetings minutes, notices, and testimony on the House website;
- Conduct informational briefings and allow the public to access the video;
- Most importantly publish of Interim and Final reports and release the reports to the public with an email address for public comments; and
- Hold a press conference with the media to share our recommendations and reports with the media and public and have our Commission Chair be the spokesperson and include brief statement about our report.

MEMBER NAKAKUNI: This is a major agenda item. I would recommend that this topic be taken up at future meeting and labeled as a specific agenda item, rather than an "other matters" topic of discussion.

CHAIR FOLEY: These are things to keep in mind, but for purposes of the Interim Report which is due in 4 weeks, I really don't think it is practical to accomplish these recommendations and they may serve to slow down our current progress to meeting the timeline for our Interim Report. However, I am not opposed to the group having a further discussion on these recommendations, but for purposes of the Final Report only.

MEMBER NAKAKUNI: I agree that we don't have a lot of time, certainly for our Interim Report. And that doesn't even consider that our Final Report is due in eight months.

CHAIR FOLEY: I would suggest that we continue to meet on a weekly basis through March 31st.

11. Next meeting date

Next meeting will take place on Thursday March 10, 2022, at 1:00pm, via videoconferencing.

Commission to Improve Standards of Conduct:

March 10, 2022, Meeting:

All members of the Commission were in attendance:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Sandy Ma, Executive Director of Common Cause Hawaii;

Barbara C. Marumoto, Former State Representative;

Janet Mason, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii;

1. Review and approve prior meeting notes

CHAIR FOLEY: Moved to adopt prior meeting notes of March 2, 2022. Motion was seconded and adopted.

2. List of measures recommended for Interim Report

CHAIR FOLEY: I want to get feedback from each member on how to proceed with determining measures for the Commission to consider recommending in the Interim Report. In other words, what measures should we discuss to consider adopt as a recommendation for the Interim Report.

MEMBER IZUMI-NITAO: Perhaps we should use the consolidated spreadsheet to determine which measures the Commission would like to recommend for approval in the Interim Report.

MEMBER MARUMOTO: We should think about what we want in the Final Report as far as curtailing corruption. Perhaps proceed by topic, rather than by bill.

For our 3/31 report the public is expecting the Commission to initially recommend some broad brush ideas to fight corruption in government.

People are expecting and deserve solutions to fight corruption such as establishing a Fraud Unit in the AG's Office, strengthening autonomy in agencies that deal with campaigning and

ethics, providing them with sufficient staff, budgets and other tools that they may require. We must increase openness and transparency in state government. We need greater disclosure especially in dealing with PAC donations.

After explaining a few of our goals the Commission must mention bills that fulfill these goals and have a chance at passage this 2022 session. Then after 3/31 the Commission can flesh out other concepts and bills for the Final Report.

VICE CHAIR HARRIS: For purposes of the Interim Report and how to proceed with discussion today we can maybe pick a few bills, maybe top 3 to discuss in each category. For example, the Ethics Commission's top 3 bills would be mandatory ethics training which will expand well beyond the 2,000 employees who currently receive ethics training. A new measure not currently in the legislative mix which would make legislative allowance expenditures more transparent and available publicly on the internet. The fundraiser ban during session that's in SB555 would be the third measure, but the measure needs additional safeguards to also curtail donations during session as well.

Strongly suggest that we talk with the AG's office at some point for purposes of recommending long-term ideas of fraud and include those recommendations in the Final Report.

MEMBER NAKAKUNI: AG's are aware of our Commission, but discussions are still in the early stages. Dialogue with the AG's and other appropriate law enforcement agencies will continue as we proceed.

MEMBER MASON: I've been reviewing both of our long and short goals in regard to bills. My sense is that the Legislature is listening to our proposals and wants to make changes.

MEMBER MA: We should have broad categories of ethics, campaign finance, and lobbying, and then under each broad category have a detailed list of bills in each.

MEMBER MARUMOTO: Aim should be to get some bills passed this session, but the larger effort will be aimed at accomplishing our goal to recommend laws for the 2023 Regular Session.

MEMBER NAKAKUNI: Agree with broad categories and then refine with specific bills.

CHAIR FOLEY: Okay, sounds like we are in agreement to proceed with broad categories and individual bills that will be identified for purposes of the March 31st Interim Report. Other matters can be identified in the Interim Report, but designated for discussion and development for the Final Report. For today we will identify bills to recommend for the Interim Report.

MEMBER IZUMI-NITAO: After First Crossover CSC has 10 Senate Bill's, 5 House Bill's that are alive. Some of them are companion measures. For purposes of identifying the big ticket item bills for the Interim Report, CSC would recommend the following bills. SB555

bans fundraisers during legislative session; however, we would recommend it be expanded to include all elected officials because there should not be an unfair advantage to county council members running for legislative seats who would not be subject to a legislative session. There are a series of bills that enhance fines, penalties, and remedies including criminal prosecution for campaign finance violations. They are: SB212 SD1, SB665 SD1, SB2044, and HB1423 HD1. Notably, two bills which CSC liked, HB2474 and its companion bill SB2345, authorized the CSC to refer complaints to the AG or county prosecutor in addition to any administrative determination, did not survive. CSC would recommend that its content be considered for insertion into any surviving bills involving the same subject matter.

MEMBER MA: HB2474 and SB2345 (companion measure) need a state of mind element.

MEMBER MARUMOTO: I'm focused on PACs and bills that increase penalties and fines to Super PACs.

MEMBER MASON: LWV opposed SB2417, which is the bill to increase the cap on excess campaign funds to community organizations. Bill was amended, but the SD1 version actually raised the cap amount and has progressive cap amounts depending upon the office. Though this measure (raising the cap), did not pass this session, the practice of giving certain excess campaign funds to community organizations is still permitted under existing law, and the LWV opposes such practices.

CHAIR FOLEY: We should focus on getting a list of big ticket item bills for this Interim Report, but other housekeeping amendments from CSC and Ethics can also be mentioned. For today and for the Interim Report we should focus should be on big ticket items.

MEMBER MA: HB1888, pertains to electioneering communications and is moving through the legislative process. Is that a measure we should discuss?

MEMBER IZUMI-NITAO: It's an important bill and we would like for it to be considered for inclusion in the Interim Report, but it may not be what this Commission would consider to be a big ticket bill.

MEMBER MARUMOTO: Any bills for CSC to help effectuate their operations and practices?

VICE CHAIR HARRIS: To reiterate the Ethics Commission top priority bills: HB1475 mandatory ethics training. Public disclosure of legislative allowances spent and have public access available. No current bill in the works. HB2500 Ethics Commission budget to allow for the hiring of investigators.

MEMBER MA: HB1475 suggestion to amend would be to require such ethics training every year, not just every 4 years. Build in some consequences if a legislator does not go through the mandatory training.

VICE CHAIR HARRIS: It's a good suggestion, but I think tracking the training annually would be onerous for the staff.

CHAIR FOLEY: Okay, sounds like HB1475 is one of the bills to possibly recommend and we can suggest possible amendments and discuss further and possibly vote on at our next meeting.

SB555 we need to be cautious of First Amendment issues for private persons. No problem legislating restrictions to legislators in this regard.

MEMBER MASON: For the LWV one focus is transparency bills. HB2303 HD1, LWV strongly opposes this measure to allow for withholding certain information concerning legislative intent and internal deliberative and pre-decisional materials. SB2143 SD2 we are in support as this defines what a board packet is for public meetings and requires making the packet available 48 hours in advance.

CHAIR FOLEY: Sounds like a consensus to organize our report by broad categories, e.g. "Openness and Transparency", then list specific bills under each broad category.

MEMBER MA: Sunshine measures that the CCHI supports includes SB2143 which will bring more transparency to public meetings. HB2026 provides more clarity, transparency, and accountability to the operations of boards and commissions when conducting their business. SB3164 is a campaign finance dark money bill that tracks campaign contributions and transfers and traces – money to the original source, but its companion HB1881 HD1 died in the House. HB2416 is another campaign measure concerning dark money, but it only tracks Section 501(c)(4) organizations which would not be completely effective to stop dark money contributions.

CHAIR FOLEY: Will put down HB1118 on the list with possible amendments to consider. Any other thoughts or bills to consider?

MEMBER IZUMI-NITAO: We may need money to implement some of these laws if they pass.

MEMBER MARUMOTO: Gift law bill that touches on openness. Maybe we should consider whether or not family members should be included on annual disclosure forms.

MEMBER NAKAKUNI: I'm personally interested in strengthening the state laws for investigating and prosecuting fraud and corruption. Right now, federal agencies are doing a good job at that, in the long-term we need our State and county agencies to have a similar presence and accomplish the same. These are more likely long term laws. SB2930 is one of the few bills moving in regard to strengthening state laws. SB2345 was another potential measure but it did not receive a hearing. HB2171 HD2 is another law enforcement reorganization bill that establishes a new Department of Law Enforcement and attached training center and has passed the House and is scheduled for hearing in the Senate next week.

MEMBER IZUMI-NITAO: Another bill is SB2291 which involves electronic eavesdropping. It passed the Senate and is scheduled for a hearing next week in the House.

CHAIR FOLEY: Any other recommended bills for the Interim Report?

MEMBER MARUMOTO: Ranked choice elections?

CHAIR FOLEY: We should put that as a potential measure for the Final Report.

MEMBER MA: Currently a ranked choice voting measure SB2162 is moving but it only pertains to federal and special elections.

CHAIR FOLEY: Our Commission will list big ticket item bills but then also include a second category for additional bills.

MEMBER IZUMI-NITAO: Other bills the CSC would like for consideration for recommended approval for the Interim Report are: HB1426 HD1, contested case hearings; HB1427 HD1, clarifies who has to file reports; HB1888 HD2, electioneering communications bill. But SB2388 SD1 may be a cleaner version; HB2416 HD2 is a dark money bill, but it requires a threshold of \$100 which the CSC feels may be too low and unconstitutional.

MEMBER MA: HB2416 really only pertains to 501(c)(4) orgs.

MEMBER IZUMI-NITAO: Other measures which will help the CSC further its operations and management are: SB166 SD1, which prohibits foreign nationals and foreign-influence corporations from making certain expenditures; SB2043, repeals something no longer in existence, so that's more of a housekeeping measure; SB2300 authorizes campaign funds for child care and vital household dependent care costs; and SB2388 SD1 passed the Senate and requires disclosure of electioneering communications when subsequent electioneering expenditures are made, but it also raises the cap threshold for these purposes from \$1,000 to \$2,000.

VICE CHAIR HARRIS: Secondary list of bills, financial disclosure and reporting of financial interests of high profile boards and commissions. The Ethics Commission opposed HB1849 and Senate companion SB2123. Both are dead this year.

MEMBER MARUMOTO: I would propose that a big ticket bill be SB2930.

3. Measures and topics to consider for Final Report

CHAIR FOLEY: Topics to put in the Interim Report that will be explored for the Final Report. Final Report will essentially include everything that did not make it into the Interim Report, but the Final Report may also include items in the Interim Report that did not get enacted this session and would be a consideration as possible recommendations for the 2023 Regular Session.

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For example, term limits for all legislators. We discuss more any topics for further examination and consideration of the Commission for purposes of its Final Report due December 1, 2022.

MEMBER IZUMI-NITAO: Consider enhanced criminal statutes, penalties, and investigative tools (more in alignment with federal laws) to permit state/counties to prosecute public corruption cases and be an effective deterrent. Consider increased public funding of elections to make it useful for more people seeking public office. Consider better reporting and accountability of cash contributions – perhaps limit such contributions to \$100. Requiring fundraiser notices to be filed regardless of monetary threshold of the fundraiser. Public disclosure of legislative allowances should be a consideration and that should apply to council members as well.

VICE CHAIR HARRIS: A more efficient way to gain compliance on legislative allowance expenditures may be to make the expenditures publicly available. It could serve as a refinement tool to guide elected officials, for example, a legislator using their allowance to take another legislator to lunch is not allowed and would be made public.

CHAIR FOLEY: The Interim Report could just include several bullet points of items or ideas that the Commission plans to address prior to making possible recommendations and amendments for inclusion into the Final Report.

VICE CHAIR HARRIS: Please see my February 25th email to the group. That email identifies some of the long term goals for the Ethics Commission. We could also consider amending the lobbyist law to promote training. Having Legislators keeping a Log of everything that comes in as a gift and submitting it to the Ethics Commission on a quarterly basis would also be helpful. Requiring legislative members with a private financial business to report business clients that also lobby at the Legislature should be considered.

MEMBER MA: Please also see my email in February to the group for CCHI's "list of reforms". At Chair's recommendation, I will bullet point these items more broadly and resend to group.

MEMBER MARUMOTO: We should review the House and Senate Rules. See also Rep Ward's recent article. It offers some good suggestions for the group to think about.

MEMBER MASON: The budgetary process at the Legislature needs better transparency.

MEMBER MARUMOTO: Another item to consider long-term would be runoff elections of the top 2 candidates in primary elections where neither receive 50% or more votes.

CHAIR FOLEY: That could be a Final Report topic to consider, something like Election Reform.

4. Action steps and procedures to implement after the Interim Report and before the Final Report

CHAIR FOLEY: One thing we should think about is how to address public involvement going forward is the processes and procedures can we start to put in place.

MEMBER MASON: We can work on preparing procedures that the group can consider moving forward to determine feasibility.

CHAIR FOLEY: The Commission will explore the manner and procedure we will use for purposes of better public transparency.

5. Form of reports

CHAIR FOLEY: We have a basic template and idea of how the Interim Report and Final Report will be structured. The draft Interim Report can now start to be developed. Once a draft is ready, we will circulate it to the group for comment, feedback, and revision.

MEMBER MASON: One possibility is to use the same "Goal" headings for both the short- and long-term reports, classifying our near term bill recommendations and the long-term recommendations into the same headings, with headings that use impactful words.

6. Other matters

None.

7. Next meeting date

Next meeting will take place on Wednesday March 16, 2022, at 1:00pm, via videoconferencing.

Commission to Improve Standards of Conduct:

March 16, 2022, Meeting:

The following members of the Commission were in attendance. MEMBER NAKAKUNI was excused.

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Sandy Ma, Executive Director of Common Cause Hawaii;

Barbara C. Marumoto, Former State Representative; and

Janet Mason, League of Women Voters of Hawaii.

1. Review and approve prior meeting notes

CHAIR FOLEY: Moved to adopt prior meeting notes of March 10, 2022. Motion was seconded and adopted.

2. List of measures recommended for Interim Report

CHAIR FOLEY: This meeting is for tentative approval of the bills this Commission is willing to include as recommendations for our Interim Report due March 31st. No recommendations will be considered final until the final draft of the Interim Report is approved and adopted by the Commission.

For today's meeting, I think it would be most efficient if we proceed with using the recommended list of measures provided to the Commission by staff to determine everyone's temperature on the particular subject matter of each bill and each member's willingness to include it in the Interim Report. Staff have provided a preliminary list of bills discussed at our previous meeting and categorized them into six sections. Section I: Openness and Transparency; Section II: Ethics Oversight; Section III: Campaign Reform; Section IV: Fraud Abuse and Criminal Prevention; Section V: Other housekeeping measures; and Section VI: Topics for consideration for the Final Report.

Does the group agree to proceed in this manner? Any questions or comments before we get started?

MEMBER MASON: Should we modify the list to only include measures that made it through the crossover deadline?

CHAIR FOLEY: As we get to specific bills that did not make the First Crossover filing deadline, please identify those particular measures when we get to them.

Two measures relating to sunshine and openness and transparency HB2026 HD2 and SB2143 SD2 are included in Section I. Any comments or additional bills to include under Section I of the bill list?

MEMBER MA: SB3252 HD1 is a bill that waives reproduction costs for certain government records that are requested by the public and others. The measure adds to openness and transparency but CCHI prefers the SD2 version of the measure which waives reproduction of the first 100 pages of documents if disclosure is in the public interest.

MEMBER MASON: I want to propose changing the names of our section headers to language that will provide more flare and attraction of the media. For example, for Section I label the category as "Give openness and transparency a boost."

MEMBER IZUMI-NITAO: The preliminary list needs to be separated into big ticket items and not big ticket items. SB555 is a big ticket item, the dark money bill not so much.

CHAIR FOLEY: We can use this meeting to refine the draft list of bills and recategorize the list however the group wants. This is just a starting point, nothing is final.

Anyone have any constitutional concerns or issues with your bills?

MEMBER IZUMI-NITAO: Possibly yes, the \$100 contribution threshold for Section 501(c)(4) nonprofit organizations is a potential constitutional issue to CSC. Our concern differs from the advice of our Deputy Attorney General.

VICE CHAIR HARRIS: Perhaps the group can proceed by putting two different lists together, one that highlights the top 5 bills we are recommending as top priorities, then a second section that lists all other bills that the Commission is recommended, but not its top priorities.

CHAIR FOLEY: That's something we can consider because the direction in H.R. 9 that established our Commission is broad, but I think the draft list follows the details in H.R. 9 very well as it concentrates on four primary areas as discussed in the resolution for this Commission to explore.

Since MEMBER IZUMI-NITAO is flying out-of-state today I want to give her the opportunity to share her thoughts while she is with us in case she needs to leave the meeting early. So I would like to take discussion of the Section III Campaign Reforms bills out of order so that we can get her feedback.

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MEMBER IZUMI-NITAO: There are a lot of CSC bills on the list, so I would suggest reorganizing some of the CSC measures as follows: Section IV, include four bills SB212, SB665, SB2044, HB1423. For SB555, I think that could go in either Section III or Section IV.

MEMBER MARUMOTO: I think SB555 is a campaign reform bill and should stay in Section III.

MEMBER MASON: I would suggest as a new subject header to Section III, "Reduce the money and power of politics."

MEMBER IZUMI-NITAO: From the preliminary list of bills provided by staff, I would include in section III the following bills: HB1426, HB1427, HB1888, HB2416. SB166, SB2043, SB2300, SB2388, and SB3164. In section IV I would include the following bills: SB212, SB665, SB2040, and HB1423. SB555 could go in either section.

CHAIR FOLEY: Do we have tentative approval of the bills to include section III? Any objections or comments?

MEMBER MASON: Is HB2171 staying in section IV? This would be a major change in the administration of criminal justice in our State. This measure may need further clarification before becoming a recommendation.

CHAIR FOLEY: Regarding SB555 SD1, are we supporting the bill as is, or are we suggesting amendments?

MEMBER IZUMI-NITAO: CSC is in favor of suggesting amendments that would expand the fundraiser ban to all elected officials including county council members so that there is no unfair advantage.

MEMBER MA: CCHI would like amendments to expand to a prohibition for the receipt of donations and contributions.

CHAIR FOLEY: What is the impact to council member prohibitions? Would they be prohibited from fundraiser virtually year round since they are in session all year?

MEMBER IZUMI-NITAO: That's a good question, we may need to think about a fix for it.

VICE CHAIR HARRIS: I would suggest establishing a set blackout period that's applicable to every elected office. For example, have a certain period of time where no elected official can hold fundraisers or accept donations. That would hopefully level the playing field for state and county elections.

MEMBER MA: The bill should also be amended to prohibit the receipt of any donations and contributions or the holding of fundraisers during a special session as well.

CHAIR FOLEY: Okay it sounds like we are in support of proposing amendments to SB555 in our Interim Report. Just from a process standpoint, for the Interim Report we will not be drafting or attaching any bills to the Report. That will save some time and effort for the Interim Report that is due in two weeks. For the Final Report, we can attach bills that can be considered by the Legislature for the 2023 Regular Session. However, we will note in the Interim Report that the Commission is in support of certain bills, but with further amendments and then we can detail those suggested amendments.

MEMBER IZUMI-NITAO: HB2416 HD2 is one of the Campaign Reform bills listed in Section III that had a lot of comments and suggested edits from the members as well.

MEMBER MA: HB2416 HD2 is limited to just Section 501(c)(4) organizations, so CCHI has concerns with this bill in its current form as it may drive dark money into other areas.

CHAIR FOLEY: We need to think about constitutional issues of restricting private entities from giving donations to elected officials.

MEMBER IZUMI-NITAO: I agree. Rhode Island has a threshold of \$1,000, which CSC would find more supportable.

CHAIR FOLEY: Appreciate the intent of this measure, but I think the issue of tackling dark money needs further contemplation and consultation with the CSC. So recommendation would be to take this off the list even over the objections of the CSC and MEMBER IZUMI-NITAO. However, this subject matter can be a topic for further exploration for the Final Report and bill introduction next year. So I would make the motion to remove this bill from the list. Any objections? Motion was seconded and adopted.

Also, along these same lines, SB166 SD1, is a bill that prohibits foreign nationals and foreign-influenced corporations from making certain campaign expenditures. Legally can we limit such contributions from foreign entities or out-of-state money?

MEMBER MA: Yes, it is permissible to prohibit foreign contributions, but I also think that there are differences with approach as to how to achieve and, thus it is recommended taking this bill off the list of potential recommendations. In addition, from the discussions on this measure it does not seem as if there is enough consensus of support for this bill.

CHAIR FOLEY: Any objections to removing SB166 SD1 from the potential list of recommended bills? Seeing no objections, I would like to make a motion to remove this measure from the list. Motion was seconded and adopted. Any other bills to remove from the tentative list?

MEMBER IZUMI-NITAO: HB1118 HD2, seems similar to HB2416 which was removed from our preliminary list.

CHAIR FOLEY: Any objections to taking HB1118 HD2 off the tentative list of bills to recommend in the Interim Report? Seeing none, motion was seconded and adopted.

Thank you MEMBER IZUMI-NITAO for your feedback on the Campaign Reform list of bills. Next let's go back to section II and discuss the Ethics Oversight category.

VICE CHAIR HARRIS: Regarding mandatory ethics training, HB1475 HD1. I've looked at the suggested edits to this bill by other members and appreciate the feedback. We plainly support more trainings. However, we are concerned with administrative capacity issues and ramping up the ethics training requirements so quickly. My suggestion is to leave the bill as is for now, and come back in a couple years as our ability to handle more frequent trainings grows.

MEMBER MA: Requested training on an annual basis, rather than every four years, but understands the position of the Ethics Commission.

VICE CHAIR HARRIS: The measure does currently require new employees and elected officials to complete the training within 90 days of employment so all new employees would fall within the current requirements of the bill. More frequent re-training would be something to revisit a few years down the road.

Regarding the Ethics Commission suggestion concerning legislative allowances, we are not proposing new legislation. Rather, simply asking the House and Senate to administratively make legislative allowance expenditures publicly available online. It's our understanding that this would not be difficult to do. This would promote greater public transparency over legislative allowances.

CHAIR FOLEY: Okay, the motion would be to move the legislative allowances from section II and make this issue more of a comment in the Interim Report. Motion was seconded and adopted.

We already discussed section III measures. Moving to section IV measures. SB2930 SD2, any questions or concerns?

MEMBER IZUMI-NITAO: This is an important measure to recommend in the Interim Report and also deserves further attention to include in the Final Report.

CHAIR FOLEY: Okay, MEMBER NAKAKUNI also mentioned her support for this bill in prior meetings. Motion to include SB2930 SD2 as a recommendation in our Interim Report. Motion was seconded and adopted.

Next bill is HB2474 HD1. Any questions or comments?

MEMBER IZUMI-NITAO: HB2474 HD1 is dead so I would recommend taking it off the list of measures to recommend for the Interim Report.

CHAIR FOLEY: Okay, any objections? Motion was seconded and adopted. Just as a point of information, bills not included in the Interim Report can be put on the list for discussion purposes or topics for consideration in the Final Report.

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CHAIR FOLEY: Next bill on the list is HB2171 HD2. Any questions?

MEMBER MASON: I would recommend deleting this bill from the Interim Report and move to consider this subject matter for the Final Report list.

CHAIR FOLEY: Motion is to exclude HB2171 HD2 from the Interim Report. Motion was seconded and adopted.

Next measure is SB2044. Any comments?

MEMBER IZUMI-NITAO: SB2044 is another bill that is dead, but the House companion, HB1423 is moving.

CHAIR FOLEY: Okay HB1423 was a previous bill we have discussed and are considering as a recommendation for the Interim Report. Motion is to remove SB2044 from the list. Any objections? Motion was seconded and adopted.

Next measure is SB2417 SD1. Any questions?

MEMBER IZUMI-NITAO: This is another measure that is dead for this session. I would recommend removing this bill from the Interim Report and consider later for purposes of the Final Report.

CHAIR FOLEY: Okay, motion is to take SB2417 SD1 off the list. Any objections? Motion was seconded and adopted.

CHAIR FOLEY: Last measure for discussion in the draft section IV is SB2291. Any questions?

MEMBER IZUMI-NITAO: The bill's language concerning the process to obtain search warrants needs some clarification. This should not apply to civil proceedings. This is up for decision-making tomorrow. We should just monitor this bill for now to see what happens.

MEMBER IZUMI-NITAO: Just to reiterate my suggestions for purposes of section IV of the Interim Report. For the CSC bills, I would include in section IV HB1423, SB212, SB665, and SB2044.

MEMBER MARUMOTO: I would suggest including some mention or reference to greater autonomy in the title of section IV.

CHAIR FOLEY: Moving to section V, these are just the housekeeping measures of the commission members. Any objections to HB2500 HD1, SB2043, SB2123 SD1? We will come back to discussing SB2300.

MEMBER MASON: SB2123 is dead for this session. We should remove it from the list for the Interim Report.

VICE CHAIR HARRIS: I would take SB2123 SD1 off the list and its dead for now.

CHAIR FOLEY: Motion is to remove SB2123, any objections? Motion was seconded and adopted.

MEMBER MARUMOTO: What about the Ethics Commission request for an investigator, HB2500 HD1?

MEMBER MASON: We also feel that funding of an investigator position for the Ethics Commission is important.

CHAIR FOLEY: Next bill is SB2300. Who is supporting this bill?

MEMBER IZUMI-NITAO: This bill is relating to campaign finance and is moving.

CHAIR FOLEY: If there are no objections, I do have some concerns about this bill and would recommend that we delete this measure from the list. Motion was seconded and adopted.

Any other bills we missed that we need to consider for the Interim Report?

MEMBER MA: SB3172 SD1 is a bill concerning mandatory recorded of audio or visual board meetings and to have the recording be considered a public record. This bill crossed to the House and is scheduled for Friday. A suggested amendment would be to place the recording of the meeting on YouTube, if the meeting is actually recorded.

CHAIR FOLEY: Motion is to include SB3172 SD1 on the list of potential bills to include in the Interim Report. Motion was seconded and adopted. Placing it under Openness and Transparency section.

3. Measures and topics to consider for Final Report

CHAIR FOLEY: This is section VI of the draft recommendation list. Any comments on this list? This seems to be a fairly comprehensive list that we can use as a starting point. We can add or delete from the list at any time.

MEMBER MASON: I would suggest that we add to the list of topics we will consider for the Final Report certain bills introduced during the 2022 Regular Session, but which did not meet the Legislature's First Crossover filing deadline. Maybe noting something like the following in the Interim Report: "Other subject matter bills introduced during the 2022

Regular Session which did not meet the First Crossover filing deadline and were left out of the recommendations in our Interim Report."

4. Action steps and procedures to implement, including public participation, and other topics to explore after the issuance of the Interim Report and before adoption of the Final Report

CHAIR FOLEY: We need to think about how the Commission will work going forward. As far as the public participation component, which individuals or organizations that we think be helpful for us to talk with to furthering the completion of our work, and house to archive our recordings and meetings electronically.

VICE CHAIR HARRIS: Perhaps having a webpage where the public can go to and join our meetings through a Zoom link. We could periodically give the public participants an opportunity to ask questions or provide comments if there are not too many people wanting to comment. Otherwise, limiting the public input by setting time limits may be necessary.

CHAIR FOLEY: I think it is important to make a statement in the Interim Report about the planned public engagement and the willingness of the Commission to solicit critical input from certain entities as requested in H.R. 9.

5. Interim Report

CHAIR FOLEY: About two weeks away from submitting it to the Legislature. Once the Interim Report is released, we may need to start thinking about a public statement or the next steps for our Commission.

6. Other matters

None.

7. Next meeting date

Next meeting will take place on Thursday March 24, 2022, at 1:00pm, via videoconferencing.

Commission to Improve Standards of Conduct:

March 24, 2022, Meeting:

All members of the Commission were in attendance:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Sandy Ma, Executive Director of Common Cause Hawaii;

Barbara C. Marumoto, Former State Representative;

Janet Mason, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii;

1. Review and approve prior meeting notes

CHAIR FOLEY: Meeting notes from March 16, 2022, not yet complete, but seems like there is consensus of the draft notes. Once the meeting notes are finalized they will be circulated via email.

2. Review, discuss, and amend draft Interim Report

CHAIR FOLEY: The draft Interim Report was circulated to all the members for feedback, comments, and revisions. Members who had suggestions circulated a revised document. It seems like most members used MEMBER MASON's revised document that was also circulated to the group via email and added further revisions to it.

CHAIR FOLEY: One suggestion is to move the existing Part IV of the draft to be Part I to emphasize the importance of our Commission to make strides to address public corruption. It was also suggested to change the name of the section to read: Part I. Strengthen Investigation and Prosecution of Fraud. Motion for those changes was seconded and adopted.

CHAIR FOLEY: One measure in this section is SB665 SD1. Do we have agreement on this recommendation or do any members have suggested amendments?

MEMBER MA: My concern with this measure is the lack of a mens rea requirement. However, this bill was just heard by a House Committee who passed it with amendments.

The amendments may have addressed my concerns. In addition this measure increases the disqualification period from 4 years to 10 years for anyone convicted for a crime involving campaign finance law. We should mention this in the bill's description.

MEMBER MARUMOTO: I think there is a need for some introduction to this Part before getting into the substantive recommendations. I did read and review MEMBER MASON's proposed language and I find it acceptable to include as an introduction.

CHAIR FOLEY: Another measure in this Part is SB212 SD1. Are there any comments or suggestions for this bill and should it be included in this Part as a recommendation of the Commission?

MEMBER IZUMI-NITAO: SB212 SD1 was not heard in the House and is dead for this session.

VICE CHAIR HARRIS: That is true that the bill appears to be dead for this session, but there is always a chance for the measure to be re-referred to be kept alive for this session. Thus, I would encourage the opportunity for more discussion and keep this bill on our preliminary list for now.

CHAIR FOLEY: The request is to keep SB212 SD1 on the list, any objections? Motion was seconded and adopted.

CHAIR FOLEY: SB2040 is another bill in this section that is in regard to certain candidates not being required to file preliminary reports to the CSC. Seems like there is a general consensus to not include this bill in our recommendations.

CHAIR FOLEY: After having some discussion, motion to delete this measure from the list was seconded and adopted.

CHAIR FOLEY: Two other bills are in this section SB2930 SD2 which establishes two new units in the Department of the Attorney General to combat fraud and human trafficking. Second measure is HB1423 HD1 SD1 was amended in the Senate to specify that if a noncandidate committee that makes only independent expenditures and has either received at least one contribution of more than \$10,000 from any one person or has made expenditures of more than \$10,000 in the aggregate in an election period violates the campaign spending laws, they may be fined an amount not to exceed \$5,000 for each occurrence or an amount not to exceed three times the amount of an unlawful contribution or expenditure.

CHAIR FOLEY: Recommendation is to keep these two measures in our recommendations. Any objections? Motion was seconded and adopted.

CHAIR FOLEY: Moving to the "Give Openness and Transparency a Boost" section, the first bill is HB2026 HD2. It appears that we do not have a consensus of support for this measure in its current form because the application of the provisions in this measure need to be

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improved upon. Thus, I am recommending that we remove it from our list of recommendations for the Interim Report. Any objections? Motion was seconded and adopted.

CHAIR FOLEY: Next measure is SB2143 SD2. We have support to include this as a recommendation. Any objections? Seeing none, the motion was seconded and adopted.

CHAIR FOLEY: SB3252 HD1 is the next bill in this section. This bill concerns information requests and reproduction costs for obtaining government records.

MEMBER MA: The SD2 version of the measure waives reproduction costs for the first 100 pages.

VICE CHAIR HARRIS: I appreciate the concerns over reproduction time and costs both from a public viewpoint of access, and from an agency's concerns about budget/capacity. One advantage to imposing some cost sharing is that it narrows requests to the key information sought by the requestor.

MEMBER IZUMI-NITAO: Depending on the nature of the request, I can see the concern from the agency side for a small office such as mine with limited resources. Some public information requests could easily detract from our office's everyday work and essentially take a couple weeks to research and respond to a request. It could effectively shut down our office for a period of time which would be difficult if we were also in the middle of an election.

VICE CHAIR HARRIS: Perhaps one area to consider in supporting greater transparency is to fund the Office of Information Practices with money that can be used to fund information disclosures in the public interest. OIP could decide that a request is in the public interest and help fund the responsible agencies' efforts.

MEMBER MA: Agencies who receive an information request should also in certain cases where there would be great time and cost involved with the request to communicate that back to the requestor prior to engaging in the request. There was one situation where a public person's information request resulted in them receiving a \$4,000 bill from the agency they submitted a request to. The person had no idea until they receive the bill in the mail.

CHAIR FOLEY: It appears that MEMBER IZUMI-NITAO and VICE CHAIR HARRIS have some concerns over the potential impacts over this bill as currently drafted.

CHAIR FOLEY: Last bill in this section is SB3172 SD1.

MEMBER MA: It is my understanding that several agencies will be offering changes to the language in this bill.

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CHAIR FOLEY: Next section is Ethics Oversight. MEMBER MASON has offered suggested language for inclusion into this section as an introduction, as well as a change to the section title name. Any comments or objections to those changes? Motion to change the title and include introduction language was seconded and adopted.

CHAIR FOLEY: The one current measure in this section is HB1475 HD1.

MEMBER MA: I would prefer that training be offered every year, especially for legislators and other certain members of boards and the Executive Branch. In addition, I would like to see consequences established against those individuals that do not do the training as required. Perhaps have them put on leave without pay or removed from their position until the training is completed.

CHAIR FOLEY: We will note those potential amendments.

VICE CHAIR HARRIS: One additional bill to potentially include in this section is HB2069 HD2. It establishes procedures for the custody, inventory, and care of protocol gifts received by members of the Legislature or state employees. We should also remove direct references to YouTube.

CHAIR FOLEY: This bill appears to be moving through the Senate and may potentially go to Conference Committee. Motion to include this bill in the recommendations of this section was seconded and adopted.

VICE CHAIR HARRIS: I would also suggest that we move the discussion about legislative allowance expenditures to the section on Openness and Transparency, or whatever that section is relabeled as.

CHAIR FOLEY: Any objections to that suggestion? Motion was seconded and adopted.

CHAIR FOLEY: The next part of the Interim Report is the section to "Reduce the Money and Power of Politics". MEMBER MASON offered language to include as an introduction to this section. Motion to include that language as an introduction was seconded and adopted.

CHAIR FOLEY: First bill is SB555 SD1 regarding a ban on fundraisers during session. The Commission had several discussions about this bill and several amendments were offered.

MEMBER MARUMOTO: The prohibition is problematic when it is extended to county council and statewide races.

MEMBER MA: The prohibition should also be expanded to have a broader application, such as to include all statewide elected officials, including the Governor and Lieutenant Governor, and those running for statewide elected office to prohibit donations and contributions.

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CHAIR FOLEY: I circulated proposed language to the group concerning an amendment to this bill that would expand application of this prohibition. Specifically, it was to expand the prohibition to include candidates for legislative seats and also prohibit the solicitation and acceptance of donations by legislators or candidates during session. I would suggest that we propose as a recommendation that expansion language and just include that as suggested amendments to this measure. Any objections? Motion was seconded and adopted.

MEMBER MA: Requesting to see the final amendment language before deciding whether to suggest further amending the language.

CHAIR FOLEY: Next measure is HB1888 HD2. From prior discussions it appears that we want to include this bill as a recommendation in the Interim Report, but offer suggested amendments.

MEMBER IZUMI-NITAO: I would suggest deleting that language in the Interim Report referencing that the companion measure SB2388 SD1 is the preferred language.

MEMBER MARUMOTO: Also I would suggest that the description in this bill more clearly articulate in plain terms what it is accomplishing, to strengthen disclosure of contributions and dark money contributions.

CHAIR FOLEY: Okay, I think we have a consensus for this bill. Any objections to including it as a recommendation in the Interim Report? Seeing none, motion is seconded and adopted.

CHAIR FOLEY: Next bill is SB3164 SD1. This bill was deferred in the House and appears to be dead this session. Any objections to deleting from our list? Seeing none, the motion was seconded and adopted.

CHAIR FOLEY: Next bill is HB1426 HD1, which concerns procedure over contested case hearings.

MEMBER MA: This measure was heard and passed by the first committee in the Senate last week and we are good with the language in the SD1 and standing committee report.

CHAIR FOLEY: Okay, recommendation is to include this as a recommendation in the Interim Report. Any objections? Motion was seconded and adopted.

CHAIR FOLEY: Next bill is HB1427 HD1. Any objections to including this in the Interim Report? Seeing none, motion was seconded and adopted.

CHAIR FOLEY: Next bill is SB2388 SD1. This was previously discussed and recommended to exclude from the Interim Report. Any objections? Seeing none, motion was seconded and adopted.

CHAIR FOLEY: Last bill is SB2043, which is essentially a housekeeping measure for CSC.

VICE CHAIR HARRIS: I think that could just be its own section, but instead of calling it a housekeeping measure maybe change to something like "Making State Agencies More Effective".

CHAIR FOLEY: Any objections to that recommendation? Seeing none, the motion was seconded and adopted.

CHAIR FOLEY: Final part of the draft Interim Report is Part V Areas of Long-Term Focus. In this Part we identify several topics to be explored before completing our Final Report in December. This is not a comprehensive list of topics and other topics can be added or deleted from the list at any point in time.

3. Next steps to finalize and adopt Interim Report

CHAIR FOLEY: The draft Interim Report will be revised to take into consideration all of the suggested amendments and further refined by our discussion today and consensus on whether or not to include in the Interim Report, and whether amendments to certain bills are suggested.

CHAIR FOLEY: The revised draft will be circulated to the members on Monday. We will review once again and if everything can be agreed via email then we will not need to meet again next week. Concerns over certain measures can be noted in the Interim Report, but the Interim Report itself will be adopted by all the members.

VICE CHAIR HARRIS: With that in mind, I would delete the reference to the word unanimous on page 5 of the draft report as that may not accurately convey the position of all members on certain bills and recommendations. Also there is a typo on page 5 that I think should reference 2023, instead of 2022.

MEMBER MARUMOTO: I would suggest that the revised Interim Report include more language concerning the potential impact that these recommendations could have to deter public corruption.

4. Next meeting date

Next meeting will take place on day April 14, 2022, at 2:00pm, via videoconferencing.