
A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1 PART I

2 SECTION 1. This Act updates, organizes, and clarifies the
3 current campaign finance laws.

4 The laws have their genesis in Act 185, Session Laws of
5 Hawaii 1973. Over the past thirty-five years, numerous
6 amendments have been made to the campaign finance laws in a
7 piecemeal fashion and, apparently, with little regard to the
8 laws as a whole. The result is laws that are unorganized,
9 difficult to read, and inconsistent in some areas. The current
10 laws are codified in part XII, subpart B of chapter 11, Hawaii
11 Revised Statutes.

12 This Act organizes the campaign finance laws into a new
13 part of chapter 11, with ten subparts. Long and involved
14 sections are divided into shorter sections with clear titles for
15 quick reference. All the laws on one subject are grouped
16 together, in contrast to the current laws that require a reader
17 to search through the whole subpart for laws that may apply to
18 that subject.

1 **§11-__2 Construction of laws.** Any ambiguity in the
2 provisions of this part shall be construed in favor of
3 transparency.

4 **§11-__3 Definitions.** When used in this part:

5 "Advertisement" means:

6 (1) (A) Any communication, exclusive of bumper stickers
7 or other sundry items, that identifies a
8 candidate either directly or by direct
9 implication; and

10 (B) Advocates or supports the nomination for election
11 of the candidate; advocates or supports the
12 election of the candidate; or advocates or
13 supports the candidate's defeat.

14 (2) (A) Any communication, exclusive of bumper stickers
15 or other sundry items, that identifies an issue
16 or question that will appear on the ballot at the
17 next applicable election; and

18 (B) Advocates or supports the passage or defeat of
19 the question or issue.

20 "Advertisement" does not include:

21 (1) A house bulletin; or

1 (2) An editorial or letter to the editor distributed
2 through the facilities of any broadcasting station,
3 newspaper, magazine, or other periodical publication,
4 unless such facilities are owned or controlled by any
5 committee.

6 "Ballot issue committee" means a noncandidate committee as
7 defined in this section that has the exclusive purpose of
8 receiving contributions, making expenditures, or incurring
9 financial obligations for or against any question or issue
10 appearing on the ballot at the next applicable election.

11 "Campaign funds" means contributions, the candidate's own
12 funds, interest, rebates, refunds, loans, or advances, and any
13 other funds or anything of value, including nonmonetary
14 contributions, received by a committee.

15 "Candidate" means an individual who seeks nomination for
16 election or seeks election to office. An individual is a
17 candidate if the individual does any of the following:

18 (1) Files nomination papers for an office for oneself with
19 the county clerk's office or with the chief election
20 officer's office, whichever is applicable;

21 (2) Receives contributions, makes expenditures, or incurs
22 financial obligations of more than \$100 to bring about

1 the individual's nomination for election, or to bring
2 about the individual's election to office; or
3 (3) Gives consent for any other person to receive
4 contributions, make expenditures, or incur financial
5 obligations to aid the individual's nomination for
6 election, or the individual's election, to office.

7 An individual remains a candidate until the individual's
8 candidate committee terminates registration with the commission.

9 "Candidate committee" means an organization, association,
10 or individual that receives campaign funds, makes expenditures,
11 or incurs financial obligations on behalf of a candidate with
12 the candidate's authorization.

13 "Clearly identified" means the name, photograph or other
14 similar image, or other unambiguous identification of a
15 candidate.

16 "Commission" means the campaign spending commission.

17 "Commissioner" means any person appointed to the
18 commission.

19 "Committee" means:

- 20 (1) Any candidate committee; or
21 (2) Any noncandidate committee.

22 "Contribution" means:

- 1 (1) A gift, subscription, deposit of money or anything of
2 value, or cancellation of a debt or legal obligation
3 and includes the purchase of tickets to fundraisers
4 for the purpose of:
- 5 (A) Influencing the nomination for election, or
6 election, of any person to office;
- 7 (B) Influencing the outcome of any question or issue
8 that has been certified to appear on the ballot
9 at the next applicable election described in
10 subparagraph (A); or
- 11 (C) Use by any committee for the purposes set out in
12 subparagraph (A) or (B);
- 13 (2) The payment, by any person other than a candidate or
14 committee, of compensation for the services of another
15 person that are rendered to the candidate or committee
16 without charge or at an unreasonably low charge for
17 the purposes set out in paragraph (1);
- 18 (3) A contract, promise, or agreement to make a
19 contribution; or
- 20 (4) Any loans or advances that are not documented or
21 disclosed to the commission as provided in section 11-
22 _56.

- 1 "Contribution" does not include:
- 2 (1) Services voluntarily provided without compensation by
- 3 individuals to or on behalf of a candidate or
- 4 committee;
- 5 (2) A candidate's expenditure of the candidate's own
- 6 funds; provided that this expenditure shall be
- 7 reportable as an other receipt;
- 8 (3) Any loans or advances to the candidate committee,
- 9 provided that these loans or advances shall be
- 10 reportable as an other receipt; or
- 11 (4) An individual or committee engaging in internet
- 12 activities for the purpose of influencing an election
- 13 if:
- 14 (A) The individual or committee is uncompensated for
- 15 the internet activities; or
- 16 (B) The individual or committee uses equipment or
- 17 services for uncompensated internet activities,
- 18 regardless of who owns the equipment and
- 19 services.

20 For purposes of this exclusion, "internet activities"

21 includes sending or forwarding electronic messages; providing a

22 hyperlink or other direct access to another person's website;

1 blogging; creating, maintaining, or hosting a website; paying a
2 nominal fee for the use of another person's website; and any
3 other form of communication distributed over the Internet.

4 "Earmarked funds" means contributions received by a
5 committee on the condition that the funds be contributed to or
6 expended on certain candidates, issues, or questions.

7 "Election" means any election for office or for determining
8 a question or issue provided by law or ordinance.

9 "Election period" means:

10 (1) The two-year time period between the day after the
11 general election through the day of the next general
12 election if a candidate is seeking nomination or
13 election to a two-year office; and

14 (2) The four-year time period between the day after the
15 general election through the day of the next general
16 election if a candidate is seeking nomination or
17 election to a four-year office.

18 "Expenditure" means:

19 (1) Any purchase or transfer of money or anything of
20 value, or promise or agreement to purchase or transfer
21 money or anything of value, or payment incurred or

1 made, or the use or consumption of a nonmonetary
2 contribution for the purpose of:

3 (A) Influencing the nomination for election, or
4 election, of any person seeking nomination for
5 election, or election, to office whether or not
6 the person has filed the person's nomination
7 paper;

8 (B) Influencing the outcome of any question or issue
9 that has been certified to appear on the ballot
10 at the next applicable election; or

11 (C) Use by any party for the purposes set out in
12 subparagraph (A) or (B);

13 (2) The payment, by any person other than a candidate or
14 committee, of compensation for the services of another
15 person that are rendered to the candidate or committee
16 without charge or at an unreasonably low rate for any
17 of the purposes mentioned in paragraph (1) (A); or

18 (3) The expenditure by a candidate of the candidate's own
19 funds for the purposes set out in paragraph (1).

20 "Expenditure" does not include:

1 (1) Services voluntarily provided without compensation by
2 individuals to or on behalf of a candidate or
3 committee;

4 (2) Voter registration efforts that are not partisan; or

5 (3) An individual or committee engaging in internet
6 activities for the purpose of influencing an election
7 if:

8 (A) The individual or committee is uncompensated for
9 internet activities; or

10 (B) The individual or committee uses equipment or
11 services for uncompensated internet activities,
12 regardless of who owns the equipment and
13 services.

14 For purposes of this paragraph, "internet activities"
15 includes sending or forwarding electronic messages; providing a
16 hyperlink or other direct access to another person's website;
17 blogging; creating, maintaining, or hosting a website; paying a
18 nominal fee for the use of another person's website; and any
19 other form of communication distributed over the Internet.

20 For purposes of this paragraph, "equipment and services"
21 includes computers, software, internet domain names, internet

1 service providers, and any other technology that is used to
2 provide access to or use of the Internet.

3 This exemption for internet services does not apply to:
4 any payment for an advertisement other than a nominal fee; the
5 purchase or rental of an e-mail address list made at the
6 direction of a committee; or an e-mail address list that is
7 transferred to a committee.

8 "House bulletin" means a communication sponsored by any
9 person in the regular course of publication for limited
10 distribution primarily to its employees or members.

11 "Immediate family" means a candidate's spouse or reciprocal
12 beneficiary, and any child, parent, grandparent, brother, or
13 sister of the candidate, and the spouses or reciprocal
14 beneficiaries of such persons.

15 "Independent expenditure" means:

- 16 (1) An expenditure;
- 17 (2) By a person expressly advocating the election or
18 defeat of a clearly identified candidate; and
- 19 (3) That is not made in concert or cooperation with or at
20 the request or suggestion of the candidate, the
21 candidate committee, a party, or their agents.

22 "Individual" means a natural person.

1 "Loan" means an advance of money, goods, or services, with
2 a promise to repay in full or in part within a specified period
3 of time. A "loan" does not include expenditures made on behalf
4 of a committee by a candidate, volunteer, or employee if:

5 (1) A candidate, volunteer, or employee's aggregate
6 expenditures do not exceed \$1,500 within a thirty day
7 period;

8 (2) A dated receipt and a written description of the name
9 and address of each payee and the amount, date, and
10 purpose of each expenditure is provided to the
11 committee before the committee reimburses the
12 candidate, volunteer, or employee; and

13 (3) The committee reimburses the candidate, volunteer, or
14 employee within forty-five days of the expenditure
15 being made.

16 "Newspaper" means a publication of general distribution in
17 the State issued once or more per month which is written and
18 published in the State.

19 "Noncandidate committee" means:

20 (1) An organization, association, or individual;

21 (2) That has the purpose of receiving contributions,
22 making expenditures, or incurring financial

1 obligations to influence the nomination for election,
2 the election of any candidate to office, or for or
3 against any question or issue on the ballot.

4 A "noncandidate committee" does not include:

5 (1) A candidate committee;

6 (2) Any individual making a contribution or making an
7 expenditure of the individual's own funds or anything
8 of value that the individual originally acquired for
9 the individual's own use and not for the purpose of
10 evading any provision of this part; or

11 (3) Any organization, which raises or expends funds for
12 the sole purpose of the production and dissemination
13 of informational or educational communications.

14 "Office" means any Hawaii elective public or constitutional
15 office excluding county neighborhood board and federal elective
16 offices.

17 "Other receipts" means the candidate's own funds, interest,
18 rebates, refunds, loans, or advances, and any other funds
19 received by a committee, but does not include contributions
20 received from other persons.

21 "Party" means any political party that satisfies the
22 requirements of section 11-61.

1 "Person" means an individual, partnership, committee,
2 association, corporation, business entity, organization, or
3 labor union and its auxiliary committees.

4 "Political committees established and maintained by a
5 national political party" means:

- 6 (1) The National Committee;
- 7 (2) The House Campaign Committee; and
- 8 (3) The Senate Committee.

9 "Qualifying contribution" means:

- 10 (1) An aggregate monetary contribution of \$100 or less;
- 11 (2) By an individual Hawaii resident during any matching
12 payment period; and
- 13 (3) Received after a candidate files a statement of intent
14 to seek public funds.

15 A qualifying contribution does not include a loan, in-kind
16 contribution, or the candidate's own funds.

17 "Special election" means any election other than a primary
18 or general election.

19 "Treasurer" means a person appointed under section 11-18
20 and unless expressly indicated otherwise, includes deputy
21 treasurers.

1 B. Campaign Spending Commission

2 §11-__5 Campaign spending commission established;

3 **composition.** (a) There is established a campaign spending
4 commission which shall be placed within the department of
5 accounting and general services for administrative purposes.

6 (b) The commission shall consist of five members of the
7 general public, appointed by the governor from a list of ten
8 nominees submitted by the judicial council. A vacancy in the
9 commission shall be filled from the list of nominees or by
10 reappointment of a commissioner whose term has expired, subject
11 to the limit on length of service imposed by section 26-34.

12 (c) Notwithstanding section 26-34, an appointment to the
13 commission shall not be subject to senatorial confirmation.

14 (d) The judicial council may solicit applications for the
15 list of nominees through community organizations and
16 advertisements in any newspaper. The judicial council shall
17 meet and expeditiously select additional persons for the list of
18 nominees whenever the number of the eligible nominees falls
19 below five.

20 §11-__6 **Terms of office.** The term of each commissioner
21 shall be four years.

1 **§11-__7 No compensation.** The commissioners shall serve
2 without compensation but they shall be reimbursed for reasonable
3 expenses, including travel expenses, incurred in the discharge
4 of their duties.

5 **§11-__8 Duties of the commission.** The duties of the
6 commission under this part are:

- 7 (1) To develop and adopt forms required by this part;
- 8 (2) To adopt and publish a manual for all candidates and
9 committees, describing the requirements of this part,
10 including uniform and simple methods of recordkeeping;
- 11 (3) To preserve all reports required by this part for at
12 least ten years from the date of receipt;
- 13 (4) To permit the inspection, copying, or duplicating of
14 any report required by this part pursuant to rules
15 adopted under chapter 91 by the commission;
- 16 (5) To ascertain whether any candidate, committee, or
17 party has failed to file a report required by this
18 part or has filed a substantially defective or
19 deficient report, and to notify these persons by first
20 class mail that the failure to file or filing of a
21 substantially defective or deficient report shall be
22 corrected and explained, and that a fine may be

- 1 assessed. All fines collected under this section
2 shall be deposited in the general fund of the State;
- 3 (6) To hold public hearings;
- 4 (7) To investigate and hold hearings for receiving
5 evidence of any violations;
- 6 (8) To adopt rules pursuant to chapter 91;
- 7 (9) To request the initiation of prosecution for the
8 violation of this part pursuant to section 11-__80;
- 9 (10) To administer and monitor the distribution of public
10 funds under this part;
- 11 (11) To suggest accounting methods for candidates and
12 committees in connection with reports and records
13 required by this part;
- 14 (12) To employ or contract, without regard to chapters 76,
15 78, and 89, persons it finds necessary for the
16 performance of its functions, including a full-time
17 executive director, and to fix their compensation and,
18 at pleasure, to dismiss such persons;
- 19 (13) To do random audits, and field investigations, as
20 necessary; and
- 21 (14) To file for injunctive relief when indicated.

1 **§11-__9 Advisory opinions.** The commission may render
2 written advisory opinions upon the request of any candidate,
3 candidate committee, noncandidate committee, or other person or
4 entity subject to this part, as to whether the facts and
5 circumstances of a particular case constitute or will constitute
6 a violation of the campaign spending laws. If no advisory
7 opinion is rendered within ninety days after all information
8 necessary to issue an opinion has been obtained, it shall be
9 deemed that an advisory opinion was rendered and that the facts
10 and circumstances of that particular case do not constitute a
11 violation of the campaign spending laws. The opinion rendered
12 or deemed rendered, until amended or revoked, shall be binding
13 on the commission in any subsequent charges concerning the
14 candidate, candidate committee, noncandidate committee, or other
15 person or entity subject to this part, who sought the opinion
16 and acted in reliance on it in good faith, unless material facts
17 were omitted or misstated by the persons in the request for an
18 advisory opinion. Nothing in this section shall be construed to
19 allow the commission to issue rules through an advisory opinion.

20 **§11-__10 Political activities prohibited.** (a) Each
21 commissioner and the commission's staff shall not participate in
22 any political campaign, including making a contribution to a

1 candidate or committee, during the commissioner's term of office
2 or employee's term of employment.

3 (b) Each commissioner shall retain the right to:

4 (1) Register and vote in any election;

5 (2) Participate in the nonpolitical activities of a civic,
6 community, social, labor, or professional
7 organization, or of a similar organization;

8 (3) Be a member of a political party or other noncandidate
9 political organization and participate in its
10 activities to the extent consistent with law; and

11 (4) Otherwise participate fully in public affairs, except
12 as prohibited by law, in a manner which does not
13 materially compromise the commissioner's efficiency or
14 integrity as a commissioner or the neutrality,
15 efficiency, or integrity of the commission.

16 (c) A commissioner and the commission's staff may request
17 an advisory opinion from the state ethics commission to
18 determine whether a particular activity constitutes or would
19 constitute a violation of this section.

20 **§11-11 Exemptions.** (a) The commission shall be exempt
21 from section 26-35(a) (1), (4), and (5) and shall:

1 (1) Make direct communications with the governor and
2 legislature;

3 (2) Make all decisions regarding employment, appointment,
4 promotion, transfer, demotion, discharge, and job
5 descriptions of all officers and employees of or under
6 the jurisdiction of the commission without the
7 approval of the comptroller; and

8 (3) Purchase all supplies, equipment, or furniture without
9 the approval of the comptroller.

10 (b) The commission shall follow all applicable personnel
11 laws.

12 C. Registration with the Commission

13 **§11-15 Registration of candidate committee or**

14 **noncandidate committee.** (a) Each candidate committee or
15 noncandidate committee shall register with the commission by
16 filing an organizational report as set forth in section 11-16
17 or 11-17, as applicable.

18 (b) Before filing the organizational report each committee
19 shall mail or deliver an electronic filing form to the
20 commission.

21 (c) The form shall include a written acceptance of
22 appointment and certification of each report.

1 (1) A candidate committee shall file a written acceptance
2 of appointment by the chairperson and treasurer and a
3 certification by the candidate and treasurer of each
4 filed report.

5 (2) A noncandidate committee shall file a written
6 acceptance of appointment by the chairperson and
7 treasurer and a certification by the chairperson and
8 treasurer of each filed report.

9 (d) The organizational report for a candidate committee
10 shall be filed within ten days of:

11 (1) The date the candidate files nomination papers for
12 office; or

13 (2) The date the candidate or candidate committee receives
14 contributions or makes or incurs expenditures of more
15 than \$100 in the aggregate during the applicable
16 election period,

17 whichever occurs first.

18 (e) An organizational report does not have to be filed
19 under this section by an elected official who is a candidate for
20 reelection to the same office in successive elections and has
21 not sought election to any other office during the period

1 between elections, unless the candidate is required to report a
2 change in information pursuant to section 11-16.

3 (f) A candidate shall have only one candidate committee.

4 (g) The organizational report for a noncandidate committee
5 shall be filed within ten days of receiving contributions or
6 making or incurring expenditures of more than \$1,000, in the
7 aggregate, in a two-year election period; except that within the
8 thirty day period prior to an election, a noncandidate committee
9 shall register by filing an organizational report within two
10 days of receiving contributions or making or incurring
11 expenditures of more than \$1,000, in the aggregate, in a two-
12 year election period.

13 **§11-16 Organizational report, candidate committee.** (a)

14 The candidate committee organizational report shall include:

15 (1) The committee's name and address, including web page
16 address, if any;

17 (2) The candidate's name, address, and telephone number;

18 (3) The office being sought by the candidate, district,
19 and party affiliation;

20 (4) The chairperson's name, address, and telephone number,
21 and, if appointed, the deputy chairperson's name,
22 address, and telephone number;

- 1 (5) The treasurer's name, address, and telephone number,
2 and, if appointed, all deputy treasurers' names,
3 addresses, and telephone numbers;
- 4 (6) The name and address of each depository institution in
5 which the committee will maintain its account(s) and
6 applicable account number(s);
- 7 (7) A certification of statements in the report by the
8 candidate and treasurer; and
- 9 (8) The name and address of each contributor who
10 contributed an aggregate amount of more than \$100
11 since the last election applicable to the office being
12 sought and the amount and date of deposit of each such
13 contribution.

14 (b) Any change in information previously reported in the
15 organizational report with the exception of subsection (a) (8)
16 shall be electronically filed with the commission within ten
17 days of the change being brought to the attention of the
18 committee chairperson or treasurer.

19 **§11-17 Organizational report, noncandidate committee.**

20 (a) The noncandidate committee organizational report shall
21 include:

- 1 (1) The committee's name, which shall incorporate the full
2 name of the sponsoring entity, if any. An acronym or
3 abbreviation may be used in other communications if
4 the acronym or abbreviation is commonly known or
5 clearly recognized by the general public. The
6 committee's name shall not include the name of a
7 candidate;
- 8 (2) The committee's address, including web page address,
9 if any;
- 10 (3) The area, scope, or jurisdiction of the committee;
- 11 (4) The name and address of the committee's sponsoring
12 entity. If the committee does not have a sponsoring
13 entity, the committee shall specify the trade,
14 profession, or primary interest of contributors to the
15 committee;
- 16 (5) The name, address, telephone number, occupation, and
17 principal place of business of the chairperson;
- 18 (6) The name, address, telephone number, occupation, and
19 principal place of business of the treasurer and any
20 other officers;
- 21 (7) An indication as to whether the committee was formed
22 to support or oppose a specific ballot question or

- 1 candidate and if so, a brief description of the
2 question or the name of the candidate;
- 3 (8) An indication as to whether the committee is a
4 political party committee;
- 5 (9) The name, address, telephone number, occupation, and
6 principal place of business of the custodian of the
7 books and accounts;
- 8 (10) The name and address of the depository institution in
9 which the committee will maintain its campaign account
10 and each applicable account number;
- 11 (11) A certification of statements in the report by the
12 chairperson and treasurer;
- 13 (12) The name, address, employer and occupation of each
14 contributor who contributed an aggregate amount of
15 more than \$100 since the last election and the amount
16 and date of deposit of each such contribution.
- 17 (b) Any change in information previously reported in the
18 organizational report with the exception of subsection (a) (12)
19 shall be electronically filed with commission within ten days of
20 the change being brought to the attention of the committee
21 chairperson or treasurer.

1 **§11-18 Treasurer.** (a) Every committee shall appoint a
2 treasurer on or before the day it files an organizational
3 report.

4 (1) Up to five deputy treasurers may be appointed.

5 (2) A candidate may be appointed as the treasurer or
6 deputy treasurer.

7 (3) An individual who is not an officer or treasurer may
8 be appointed, on a fee or voluntary basis, to
9 specifically prepare and file reports with the
10 commission.

11 (b) A treasurer may be removed at any time.

12 (c) In case of death, resignation, or removal of the
13 treasurer, the candidate or committee shall promptly appoint a
14 successor. During the period the office of treasurer is vacant,
15 the candidate, committee chairperson, or party chairperson,
16 whichever is applicable, shall serve as treasurer.

17 (d) Only the treasurer and deputy treasurers shall be
18 authorized to receive contributions or make or incur
19 expenditures on behalf of the committee.

20 (e) The treasurer shall establish and maintain itemized
21 records showing:

22 (1) The amount of each monetary contribution;

- 1 (2) The description and value of each nonmonetary
2 contribution; and
- 3 (3) The name and address of each contributor making a
4 contribution of more than \$25 in value.
- 5 (f) The treasurer shall maintain detailed accounts, bills,
6 receipts, and other records to establish that reports were
7 properly prepared and filed.
- 8 (g) The records shall be retained for at least five years
9 after the report is filed.

10 **§11-19 Individual not serve as a committee officer in**
11 **certain circumstances; committee prohibited from acting in**
12 **concert, or soliciting or making contributions.** (a) No
13 committee that supports or opposes a candidate shall have an
14 officer who serves as an officer on any other committee which
15 supports or opposes the same candidate.

16 (b) If a committee has an officer who serves as an officer
17 on another committee which supports or opposes the same
18 candidate, the committees shall not act in concert with, or
19 solicit or make contributions on behalf of, any other committee.

20 **§11-20 Termination of committee's registration.** A
21 committee may terminate its registration if:

22 (1) The committee:

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- 1 (A) Files a request for registration termination
2 form;
- 3 (B) Files a report disclosing contributions and
4 expenditures not previously reported by the
5 committee and the committee has no surplus or
6 deficit; and
- 7 (C) Mails or delivers to the commission a copy of the
8 committee's closing bank statement; and
- 9 (2) The request is approved by the commission.

10 D. Reporting and Filing with the Commission

11 **§11-25 Filing of reports, generally.** (a) Every report
12 required to be filed by a candidate or candidate committee shall
13 be certified to be a true and accurate statement of the
14 committee's activity by the candidate and treasurer.

15 (b) Every report required to be filed by a noncandidate
16 committee shall be certified to be a true and accurate statement
17 of the committee's activity by the chairperson and treasurer.

18 (c) The persons signing and submitting the electronic
19 filing form shall certify that the electronically filed reports
20 are true and accurate.

21 (d) For purposes of this part, whenever a report is
22 required to be filed with the commission, "filed" means that a

1 report shall be filed with the commission's electronic filing
2 system by the date and time specified for the filing of the
3 report by:

4 (1) The candidate or candidate committee of a candidate
5 who is seeking election to the:

6 (A) Office of governor;

7 (B) Office of lieutenant governor;

8 (C) Office of mayor;

9 (D) Office of prosecuting attorney;

10 (E) County council;

11 (G) Senate;

12 (H) House of representatives;

13 (I) Office of Hawaiian affairs; or

14 (J) Board of education; or

15 (2) A noncandidate committee required to be registered
16 with the commission pursuant to section 11-17.

17 (e) In order to be timely filed, a committee's reports
18 shall be filed with the commission's electronic filing system on
19 or before 11:59 p.m. Hawaii-Aleutian Standard Time on the filing
20 date specified.

21 (f) All reports filed under this part are public records.

1 **§11-26 Candidate committee reports.** (a) The candidate
2 and campaign treasurer shall file preliminary, final, and
3 supplemental reports that shall disclose the following
4 information:

- 5 (1) The committee's name and address;
- 6 (2) The cash on hand at the beginning of the reporting
7 period and election period;
- 8 (3) The reporting period and election period aggregate
9 total for each of the following categories:
- 10 (A) Contributions;
- 11 (B) Expenditures;
- 12 (C) Other receipts; and
- 13 (D) Loans;
- 14 (4) The cash on hand at the end of the reporting period;
- 15 and
- 16 (5) The surplus or deficit at the end of the reporting
17 period.

18 (b) Schedules filed with the reports shall include the
19 following additional information:

- 20 (1) The amount and date of deposit of each contribution
21 and the name and address of each contributor who makes
22 contributions aggregating more than \$100 in an

- 1 election period; provided that if all the information
2 is not on file, the contribution shall be returned to
3 the contributor within thirty days of deposit;
- 4 (2) The amount and date of deposit of each contribution
5 and the name, address, employer, and occupation of
6 each contributor who makes contributions aggregating
7 \$1,000 or more during an election period; provided
8 that if all the information is not on file, the
9 contribution shall be returned to the contributor
10 within thirty days of deposit;
- 11 (3) All expenditures including the name and address of
12 each payee and the amount, date, and purpose of each
13 expenditure. Expenditures for consultants,
14 advertising agencies and similar firms, credit card
15 payments, salaries, and candidate reimbursements shall
16 be itemized to permit a reasonable person to determine
17 the ultimate intended recipient of the expenditure and
18 its purpose;
- 19 (4) The amount, date of deposit, and description of other
20 receipts and the name and address of the source of
21 each of the other receipts;

- 1 (5) Information about each loan received by the committee,
2 together with the names and addresses of the lender
3 and each person liable directly, and amount of each
4 loan. A copy of the executed loan document shall be
5 received by the commission by mail or delivery on or
6 before the filing date for the report covering the
7 reporting period when the loan was received. The
8 document shall contain the terms of the loan,
9 including the interest and repayment schedule.
10 Failure to disclose the loan or to provide
11 documentation of the loan to the commission shall
12 cause the loan to be treated as a contribution,
13 subject to all relevant provisions of this chapter;
- 14 (6) A description of each durable asset, the date of
15 acquisition, value at the time of acquisition; and the
16 name and address of the vendor or contributor of the
17 asset; and
- 18 (7) The date of disposition of each durable asset; value
19 at the time of disposition; the method of disposition;
20 and the name and address of the person receiving the
21 asset.

1 (c) The candidate committee shall file a late contribution
2 report as provided in section 11-_31 if the committee receives
3 late contributions from any person aggregating more than \$500.

4 **§11-_27 Time for candidate committee to file preliminary,**
5 **final, and supplemental reports.** (a) The candidate and
6 campaign treasurer of each candidate whose name will appear on
7 the ballot in the immediately succeeding election shall file
8 preliminary, final, and supplemental reports.

9 (1) The filing dates for preliminary reports are:

10 (A) July 31 of the election year;

11 (B) Ten calendar days prior to a primary, first
12 special, or first nonpartisan election; and

13 (C) Ten calendar days prior to a general, second
14 special, or second nonpartisan election; provided
15 that this preliminary report does not have to be
16 filed by a candidate who is unsuccessful in a
17 primary, first special, or first nonpartisan
18 election or a candidate who is elected to office
19 in the primary, first special, or first
20 nonpartisan election.

21 Each preliminary report shall be current through June

22 30 for the report filed on July 31 and current through

1 the fifth calendar day before the filing deadline of
2 other preliminary reports.

3 (2) The filing date for the final primary report is twenty
4 calendar days after a primary, first special, or first
5 nonpartisan election. The report shall be current
6 through the day of the applicable election.

7 (3) The filing date for the final election period report
8 is thirty calendar days after a general, second
9 special, or second nonpartisan election. The report
10 shall be current through the day of the applicable
11 election. The final election period report shall be
12 filed by a candidate who is unsuccessful in a primary
13 first special, or first nonpartisan election or a
14 candidate who is elected to office in the primary,
15 first special, or first nonpartisan election.

16 (4) The filing dates for supplemental reports are:

17 (A) January 31 after an election year; and

18 (B) July 31 after an election year.

19 The report shall be current through December 31 for the
20 report filed on January 31 and current through June 30 for the
21 report filed on July 31.

1 (b) The candidate and campaign treasurer of each candidate
2 with a deficit or surplus whose name will not appear on the
3 ballot in the immediately succeeding election shall file a
4 supplemental report every six months on January 31 and July 31
5 until:

6 (1) The candidate's name appears on the ballot and then is
7 subject to the reporting requirements in subsection

8 (a); or

9 (2) The committee's registration is terminated as provided
10 in section 11-20.

11 The report shall be current through December 31 for the
12 report filed on January 31 and current through June 30 for the
13 report filed on July 31.

14 (c) A candidate and treasurer shall continue to file all
15 reports until the committee's registration is terminated as
16 provided in section 11-20.

17 **§11-28 Noncandidate committee reports.** (a) The
18 authorized person in the case of a party, or campaign treasurer
19 in the case of a committee, shall file preliminary, final, and
20 supplemental reports that disclose the following information:

21 (1) The committee's name and address;

- 1 (2) The cash on hand at the beginning of the reporting
2 period and election period;
- 3 (3) The reporting period and election period aggregate
4 total for each of the following categories:
5 (A) Contributions;
6 (B) Expenditures; and
7 (C) Other receipts;
- 8 (4) The cash on hand at the end of the reporting period;
9 and
- 10 (5) The surplus or deficit at the end of the reporting
11 period.
- 12 (b) Schedules filed with the reports shall include the
13 following additional information:
- 14 (1) The amount and date of deposit of each contribution
15 and the name, address, employer, and occupation of
16 each contributor making a contribution aggregating
17 more than \$100 during an election period, which was
18 not previously reported; provided that if all the
19 information is not on file, the contribution shall be
20 returned to the contributor within thirty days of
21 deposit;

- 1 (2) All expenditures, including the name and address of
2 each payee and the amount, date, and purpose of each
3 expenditure. Expenditures for consultants,
4 advertising agencies and similar firms, credit card
5 payments, salaries, and candidate reimbursements shall
6 be itemized to permit a reasonable person to determine
7 the ultimate intended recipient of the expenditure and
8 its purpose;
- 9 (3) The amount, date of deposit, and description of other
10 receipts and the name and address of the source of
11 each of the other receipts;
- 12 (4) A description of each durable asset, the date of
13 acquisition, value at the time of acquisition; and the
14 name and address of the vendor or contributor of the
15 asset; and
- 16 (5) The date of disposition of a durable asset; value at
17 the time of disposition; the method of disposition;
18 and the name and address of the person receiving the
19 asset.
- 20 (c) No loan may be made or received by a noncandidate
21 committee.

1 (d) The authorized person in the case of a party, or
2 campaign treasurer in the case of a committee shall file a late
3 contribution report as provided in section 11-31 if the
4 committee receives late contributions from any person
5 aggregating more than \$500 or makes late contributions
6 aggregating more than \$500.

7 **§11-29 Time for noncandidate committee to file**

8 **preliminary, final, and supplemental reports.** (a) The filing
9 dates for preliminary reports are:

10 (1) Ten calendar days prior to a primary, first special,
11 or first nonpartisan election; and

12 (2) Ten calendar days prior to a general, second special,
13 or second nonpartisan election.

14 Each preliminary report shall be current through the fifth
15 calendar day prior to the filing of the report.

16 (b) The filing date for the final primary report is twenty
17 calendar days after the primary, first special, or first
18 nonpartisan election. The report shall be current through the
19 day of the applicable election.

20 (c) The filing date for the final election period report
21 is thirty calendar days after a general, second special, or

1 second nonpartisan election. The report shall be current
2 through the day of the applicable election.

3 (d) The filing dates for supplemental reports are:

4 (1) January 31 after an election year; and

5 (2) July 31 after an election year.

6 The report shall be current through December 31 for the report
7 filed on January 31 and current through June 30 for the report
8 filed on July 31.

9 (e) The authorized person in the case of a party, or
10 campaign treasurer in the case of a committee, shall continue to
11 file all reports until the committee's registration is
12 terminated as provided in section 11-20.

13 **§11-30 Reporting expenditures.** For the purposes of this
14 part, an expenditure is deemed to be made or incurred when the
15 services are rendered or the product is delivered. Services
16 rendered or products delivered for use during a reporting period
17 are deemed delivered or rendered during the period or periods of
18 use; provided that these expenditures shall be reasonably
19 allocated between periods in accordance with the time the
20 services or products are actually used.

21 **§11-31 Late contributions; report.** (a) The candidate,
22 authorized person in the case of a party, or campaign treasurer

1 in the case of a committee, that within the period of fourteen
2 calendar days through four calendar days prior to any election,
3 makes contributions aggregating more than \$500, or receives
4 contributions from any person aggregating more than \$500, shall
5 file a late contribution report with the commission's electronic
6 filing system on or before the third calendar day prior to the
7 election.

8 (b) The late contribution report shall include the
9 following information:

- 10 (1) Name, address, occupation, and employer of the
11 contributor;
- 12 (2) Name of the candidate or committee making or receiving
13 the contribution;
- 14 (3) The amount of the contribution;
- 15 (4) The contributor's aggregate contributions to the
16 candidate or committee; and
- 17 (5) The purpose, if any, to which the contribution will be
18 applied.

19 (c) A late contribution report filed pursuant to this
20 section shall be in addition to any other report required to be
21 filed by this part.

1 **§11-32 Final election period report for committee**
2 **receiving and expending \$1,000 or less during the election**
3 **period.** (a) Any provision of law to the contrary
4 notwithstanding, a committee whose aggregate contributions and
5 aggregate expenditures for the election period total \$1,000 or
6 less, may electronically file only a final election period
7 report, but need not file a preliminary and final primary
8 report, a preliminary and final general report, or a special
9 election report.

10 (b) Until the committee's registration is terminated as
11 provided in section 11-20, supplemental reports and other
12 reports required by this part shall be filed.

13 **§11-33 Failure to file report; filing a substantially**
14 **defective or deficient report.** (a) True and accurate reports
15 shall be filed with the commission on or before the due date
16 specified in this part. Any committee that is required to file
17 reports under this part shall be subject to the fines in this
18 section if the report is not filed by the due date or if the
19 report is substantially defective or deficient, as determined by
20 the commission.

21 (b) The fine for not filing a report by the due date shall
22 be \$50 per day for the first seven days, beginning with the day

1 after the due date of the report, and \$200 per day thereafter,
2 not to exceed twenty-five per cent of the total amount of
3 contributions or expenditures, whichever is greater, for the
4 period covered by the report; provided that the minimum fine for
5 a report filed more than four days after the due date shall be
6 \$200.

7 (c) Subsection (b) notwithstanding, if a candidate
8 committee does not file the second preliminary primary report or
9 the preliminary general report or if a noncandidate committee
10 does not file the preliminary primary report or the preliminary
11 general report by the due date, the fine shall be \$300 per day,
12 not to exceed twenty-five per cent of the total amount of
13 contributions or expenditures, whichever is greater, for the
14 period covered by the report; provided that the minimum fine
15 shall be \$300.

16 (d) If the commission determines that a report is
17 substantially defective or deficient, the commission shall
18 notify the candidate's committee by first class mail that:

- 19 (1) The report is substantially defective or deficient;
20 and
21 (2) A fine may be assessed.

1 (e) If the corrected report is not filed with the
2 commission's electronic filing system on or before the
3 fourteenth day after the notice of deficiency has been mailed,
4 the fine for a substantially defective or deficient report shall
5 be \$50 per day for the first seven days, beginning with the
6 fifteenth day after the notice was sent, and \$200 per day
7 thereafter, not to exceed twenty-five per cent of the total
8 amount of contributions or expenditures, whichever is greater,
9 for the period covered by the report; provided that the minimum
10 fine for not filing a corrected report more than eighteen days
11 after the notice was sent shall be \$200.

12 (f) The commission shall publish on its website the names
13 of all candidate committees that have failed to:

14 (1) File a report, or

15 (2) Correct a report within the time allowed by the
16 commission.

17 (g) All fines collected under this section shall be
18 deposited into the general fund.

19 **§11-34 Electioneering communications; statement of**
20 **information.** (a) Each person who makes a disbursement for
21 electioneering communications in an aggregate amount of more
22 than \$2,000 during any calendar year shall, within twenty-four

1 hours of each disclosure date provided in this section, file
2 with the commission a statement of information.

3 (b) Each statement of information shall contain the
4 following:

5 (1) The name of the person making the disbursement, name
6 of any person or entity sharing or exercising
7 discretion or control over such person, and the
8 custodian of the books and accounts of the person
9 making the disbursement;

10 (2) The state of incorporation and principal place of
11 business or, for an individual, the address of the
12 person making the disbursement;

13 (3) The amount of each disbursement during the period
14 covered by the statement and the identification of the
15 person to whom the disbursement was made;

16 (4) The elections to which the electioneering
17 communications pertain and the names, if known, of the
18 candidates identified or to be identified;

19 (5) If the disbursements were made by a committee, the
20 names and addresses of all persons who contributed to
21 the committee for the purpose of publishing or
22 broadcasting the electioneering communications;

1 (6) If the disbursements were made by an organization
2 other than a committee, the names and addresses of all
3 persons who contributed to the organization for the
4 purpose of publishing or broadcasting the
5 electioneering communications; and

6 (7) Whether or not any electioneering communication is
7 made in coordination, cooperation, or concert with or
8 at the request or suggestion of any candidate,
9 committee, or agent of any candidate or committee and,
10 if so, the identification of the candidate or
11 committee, or agent involved.

12 (c) For the purposes of this section:

13 "Disclosure date" means, for every calendar year, the first
14 date by which a person has made disbursements during that same
15 year of more than \$2,000, in the aggregate, for electioneering
16 communications, and the date of any subsequent disbursements by
17 that person for electioneering communications.

18 "Electioneering communication" means any advertisement:

19 (1) (A) Broadcast from a cable, satellite, television, or
20 radio broadcast station;

21 (B) Published in any periodical or newspaper; or

22 (C) Sent by mail at a bulk rate;

- 1 (2) That refers to a clearly identifiable candidate;
- 2 (3) Made, or scheduled to be made, either within thirty
- 3 days prior to a primary or initial special election or
- 4 within sixty days prior to a general or special
- 5 election; and
- 6 (4) That is susceptible of no reasonable interpretation
- 7 other than as an appeal to vote for or against a
- 8 specific candidate.

9 "Electioneering communication" shall not include
10 communications:

- 11 (1) In a news story or editorial disseminated by any
- 12 broadcast station or publisher of periodicals or
- 13 newspapers, unless the facilities are owned or
- 14 controlled by any committee or candidate;
- 15 (2) That constitutes expenditures by the disbursing
- 16 organization;
- 17 (3) In in-house bulletins; or
- 18 (4) That constitutes a candidate debate or forum, or
- 19 solely promotes a debate or forum and is made by or on
- 20 behalf of the person sponsoring the debate or forum.

1 (d) For purposes of this section, a person shall be
2 treated as having made a disbursement if the person has executed
3 a contract to make the disbursement.

4 **§11-35 Fundraiser; notice of intent.** (a) No fundraiser
5 shall be held unless a notice of intent to hold the fundraiser
6 is filed setting forth the name and address of the person in
7 charge, the price per person, the date, hour, and place of the
8 fundraiser, and the method thereof.

9 (b) The person in charge of the fundraiser shall file the
10 notice with the commission prior to the fundraiser.

11 (c) As used in this section, "fundraiser" means any
12 function held for the benefit of a candidate or committee that
13 is intended or designed, directly or indirectly, to raise
14 contributions for which the price or suggested contribution for
15 attending the function is more than \$25 per person.

16 **§11-36 Reporting deadline.** When any reporting deadline
17 falls on a Saturday, Sunday, or holiday designated in section 8-
18 1, the reporting deadline shall be the next succeeding day that
19 is not a Saturday, Sunday, or holiday.

20 **§11-37 Sale or use of information.** No information in the
21 reports or copies of the reports filed with the commission shall

1 be sold or used by any person for the purpose of soliciting
2 contributions or for any commercial purpose.

3 E. Contributions; Prohibitions; Limits

4 **§11-40 Contributions, generally.** (a) Monetary
5 contributions and other campaign funds shall be promptly
6 deposited in a depository institution, as defined by section
7 412:1-109, duly authorized to do business in the State, such as
8 a bank, savings bank, savings and loan association, depository
9 financial services loan company, credit union, intra-Pacific
10 bank, or similar financial institution, the deposits or accounts
11 of which are insured by the Federal Deposit Insurance
12 Corporation, or the National Credit Union Administration in the
13 name of the candidate or committee, whichever is applicable.

14 (b) A candidate or committee shall not accept a
15 contribution of more than \$100 in cash from a single person
16 without issuing a receipt to the contributor and keeping a
17 record of the contribution.

18 (c) Each committee shall disclose the original source of
19 all earmarked funds, the ultimate recipient of the earmarked
20 funds, and the fact that the funds are earmarked.

21 **§11-41 False name contributions prohibited.** (a) No
22 person shall make a contribution to any candidate or committee,

1 in any name other than that of the person who owns the money,
2 property, or service.

3 (b) All contributions made in the name of a person other
4 than the owner of the money, property, or service shall escheat
5 to the Hawaii election campaign fund.

6 **§11-42 Anonymous contributions prohibited.** (a) Except
7 as provided in subsection (d), no person shall make an anonymous
8 contribution to any candidate or committee.

9 (b) A candidate or committee shall not knowingly receive,
10 accept, or retain an anonymous contribution, or report such
11 contribution as an anonymous contribution, except as provided in
12 this section.

13 (c) An anonymous contribution shall not be used or
14 expended by the candidate or committee, but shall be returned to
15 the contributor. If the contributor cannot be identified, the
16 contribution shall escheat to the Hawaii election campaign fund.

17 (d) This section shall not apply to amounts that aggregate
18 less than \$500 that are received from ten or more persons at the
19 same political function. The receipt of these contributions
20 shall be disclosed in a report filed pursuant to sections 11-26
21 and 11-28.

1 §11-43 Fundraising on state or county property

2 prohibited. (a) Except as provided in subsection (b), no
3 person shall solicit a contribution in a government facility
4 that is used for the discharge of official duties by an officer
5 or employee of the State or county.

6 (b) This prohibition shall not apply to any government
7 facility that permits use by nongovernmental organizations for a
8 fee or with reservations; provided the governmental facility's
9 use rules do not prohibit political activities on the premises.
10 Government facilities that permit use for political activities
11 shall be available to a candidate or committee for fundraising
12 activities pursuant to the same terms and conditions that would
13 otherwise apply to use by nongovernmental organizations.

14 (c) A person who violates the prohibition of fundraising
15 on state or county property shall be guilty of a misdemeanor.

16 §11-44 Contributions by state and county contractors

17 prohibited. (a) It shall be unlawful for the person who enters
18 into any contract with the State, any of its counties, or any
19 department or agency thereof either for the rendition of
20 personal services, the buying of property, or furnishing of any
21 material, supplies, or equipment to the State, any of its
22 counties, department or agency thereof, or for selling any land

1 or building to the State, any of its counties, or any department
2 or agency thereof, if payment for the performance of the
3 contract or payment for material, supplies, equipment, land,
4 property, or building is to be made in whole or in part from
5 funds appropriated by the legislative body, at any time between
6 the execution of the contract through the completion of the
7 contract, to:

8 (1) Directly or indirectly make any contribution or to
9 promise expressly or impliedly to make any
10 contribution to any party, committee, or candidate or
11 to any person for any political purpose or use; or

12 (2) Knowingly solicit any contribution from any person for
13 any purpose during any period.

14 (b) Except as provided in subsection (a), this section
15 does not prohibit or make unlawful the establishment or
16 administration of, or the solicitation of contributions to, any
17 noncandidate committee by any person for the purpose of
18 influencing the nomination for election or the election of any
19 person to office; provided that the commission shall by rule
20 establish contribution limits for limited liability companies as
21 defined in section 428-101, limited liability partnerships as
22 defined in section 425-101, and limited liability limited

1 partnerships as defined in section 425E-102. Sole proprietors
2 subject to this section shall comply with applicable campaign
3 contribution limits in section 11-46(a).

4 (c) For purposes of this section, "completion of the
5 contract" means that the parties to the government contract have
6 either terminated the contract prior to completion of
7 performance or fully performed the duties and obligations under
8 the contract, no disputes relating to the performance and
9 payment remain under the contract, and all disputed claims have
10 been adjudicated and are final.

11 **§11-45 Contributions by foreign national or foreign**
12 **corporation prohibited.** (a) Except as provided in subsection
13 (b), no contributions or expenditures shall be made to or on
14 behalf of a candidate or committee by a foreign national or
15 foreign corporation, including a domestic subsidiary of a
16 foreign corporation, a domestic corporation that is owned by a
17 foreign national, or a local subsidiary where administrative
18 control is retained by the foreign corporation, and in the same
19 manner prohibited under 2 United States Code section 441e and 11
20 Code of Federal Regulations 110.20, as amended.

21 (b) A foreign-owned domestic corporation may make
22 contributions if:

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1 (1) Foreign national individuals do not participate in
2 election-related activities such as decisions
3 concerning contributions or the administration of a
4 committee; or

5 (2) The contributions are domestically-derived.

6 **§11-46 Contributions to candidate committees; limits.**

7 (a) No person shall make contributions to:

8 (1) A candidate seeking nomination or election to a two-
9 year office or to a candidate committee in an
10 aggregate amount greater than \$2,000 during an
11 election period;

12 (2) A candidate seeking nomination or election to a four-
13 year nonstatewide office or to a candidate committee
14 in an aggregate amount greater than \$4,000 during an
15 election period; and

16 (3) A candidate seeking nomination or election to a four-
17 year statewide office or to a candidate committee in
18 an aggregate amount greater than \$6,000 during an
19 election period.

20 (b) For purposes of this section, the length of term of an
21 office shall be the usual length of term of the office as
22 unaffected by reapportionment, a special election to fill a

1 vacancy, or any other factor causing the term of the office the
2 candidate is seeking to be less than the usual length of term of
3 that office.

4 **§11-47 Contributions to noncandidate committees; limits.**

5 No person shall make contributions to a noncandidate committee
6 in an aggregate amount greater than \$1,000 in an election. This
7 section shall not apply to ballot issue committees.

8 **§11-48 Family contributions.** (a) A contribution by a
9 dependent minor shall be reported in the name of the minor but
10 included in the aggregate contributions of the minor's parent or
11 guardian.

12 (b) A contribution by the candidate's immediate family
13 shall be exempt from section 11-46, but shall be limited in the
14 aggregate to \$50,000 in any election period; provided that the
15 aggregate amount of loans and contributions received from the
16 candidate's immediate family does not exceed \$50,000 during an
17 election period.

18 **§11-49 Contributions to a party.** (a) No person shall
19 make contributions to a party in an aggregate amount greater
20 than \$25,000 in any two-year election period, except as provided
21 in subsection (b).

1 (b) No political committee established and maintained by a
2 national political party shall make contributions to a party in
3 an aggregate amount greater than \$50,000 in any two-year
4 election period.

5 (c) If a person makes a contribution to a party that is
6 earmarked for a candidate or candidates and the party exercises
7 any direction or control over the choice of the recipient
8 candidate or candidates, the contribution is deemed to be a
9 contribution from both the original contributor and the party
10 distributing such funds to a candidate or candidates. The
11 earmarked funds shall be promptly distributed by the party to
12 the candidate.

13 (d) This section shall not prohibit a candidate from
14 making contributions to the candidate's party if contributions
15 are not earmarked for another candidate.

16 **§11-50 Aggregation of contributions and expenditures.**

17 (a) All contributions and expenditures of a person whose
18 contributions or expenditures are financed, maintained, or
19 controlled by any corporation, labor organization, association,
20 party, or any other person, including any parent, subsidiary,
21 branch, division, department, or local unit of the corporation,
22 labor organization, association, party, political committees

1 established and maintained by a national political party, or by
2 any group of those persons shall be considered to be made by a
3 single person.

4 (b) Contributions of an individual and any general
5 partnership in which the individual is a partner shall be
6 considered to be made by a single person.

7 (c) A person's contribution to a party that is earmarked
8 for a candidate or candidates is included in the aggregate
9 contributions of both the person and the party to the candidate
10 or candidates if the party exercises any direction or control
11 over the choice of the recipient candidate or candidates. The
12 earmarked funds shall be promptly distributed by the party to
13 the candidate.

14 (d) A contribution by a dependent minor shall be reported
15 in the name of the minor but included in the aggregate
16 contributions of the minor's parent or guardian.

17 **§11-51 Contributions limited from nonresident persons.**

18 (a) Contributions from all persons who are not residents of the
19 State at the time the contributions are made, shall not exceed
20 twenty per cent of the total contributions received by a
21 candidate or candidate committee for each reporting period.

1 (b) This section shall not be applicable to contributions
2 from the candidate's immediate family.

3 **§11-52 Other contributions and expenditures.** (a)

4 Expenditures or disbursements for electioneering communications
5 as defined in section 11-34, or any other coordinated activity
6 made by any person for the benefit of a candidate in
7 cooperation, consultation, or concert with, or at the request or
8 suggestion of, a candidate, a candidate committee, or their
9 agents, shall be considered to be a contribution to the
10 candidate and expenditure by the candidate.

11 The financing by any person of the dissemination,
12 distribution, or republication, in whole or in part, of any
13 broadcast or any written or other campaign materials prepared by
14 the candidate, candidate committee, or agents shall be
15 considered to be a contribution to the candidate.

16 This subsection shall not apply to candidates for governor
17 or lieutenant governor supporting a co-candidate in the general
18 election.

19 (b) "Coordinated activity" means:

20 (1) The payment by any person in cooperation,
21 consultation, or concert with, at the request of, or
22 pursuant to, any general or particular understanding

1 with a candidate, candidate committee, the party of a
2 candidate, or an agent of a candidate, candidate
3 committee, or the party of a candidate;

4 (2) The payment by any person for the production,
5 dissemination, distribution, or republication,
6 written, graphic, or other form of campaign material
7 prepared by a candidate, committee, or an agent of a
8 candidate or committee; or

9 (3) Any payment by any person or contract for any
10 electioneering communication, as defined in section
11 11-34, where the payment is coordinated with a
12 candidate, candidate committee, the party of the
13 candidate, or an agent of a candidate, committee, or
14 the party of a candidate.

15 (c) No expenditure for a candidate who files an affidavit
16 with the commission agreeing to limit aggregate expenditures by
17 the candidate, including coordinated activity by any person,
18 shall be made or incurred by any committee without authorization
19 of the candidate or the candidate's authorized representative.
20 Every expenditure so authorized and made or incurred shall be
21 attributed to the candidate with whom the committee is directly

1 associated for the purpose of imposing the expenditure
2 limitations set forth in section 11-_87.

3 **§11-_53 Excess contribution; return; escheat.** (a) Any
4 candidate or committee that receives in the aggregate more than
5 the applicable contribution limit in sections 11-_46, 11-_47,
6 11-_48, and 11-_49 shall return any excess contribution to the
7 contributor within thirty days of receipt of the excess
8 contribution. Any excess contribution not returned to the
9 contributor within thirty days shall escheat to the Hawaii
10 election campaign fund.

11 (b) A candidate or committee who complies with this
12 section prior to the initiation of administrative action shall
13 not be subject to any fine under section 11-_79.

14 F. Loans

15 **§11-_55 Loan to candidate committee.** (a) A candidate or
16 candidate committee may receive a loan from:

- 17 (1) The candidate's own funds;
- 18 (2) A financial institution regulated by the State or a
19 federally chartered depository institution and made in
20 accordance with applicable law in the ordinary course
21 of business;

- 1 (3) The candidate's immediate family in an aggregate
2 amount not to exceed \$50,000 during an election
3 period, provided that the aggregate amount of loans
4 and contributions received from the immediate family
5 does not exceed \$50,000 during an election period; and
- 6 (4) Persons other than immediate family of the candidate
7 in an aggregate amount not to exceed \$10,000 during an
8 election period. This \$10,000 limit for loans from
9 persons other than the immediate family is applicable
10 to the candidate, rather than the person or persons
11 making the loan.
- 12 (A) If the \$10,000 limit for loans from persons other
13 than the immediate family is reached, the
14 candidate and candidate committee shall be
15 prohibited from receiving or accepting any other
16 loans until the \$10,000 is repaid in full.
- 17 (B) If a loan from persons other than immediate
18 family members is not repaid within one year of
19 the date that the loan is made, the candidate and
20 candidate committee shall be prohibited from
21 accepting any other loans. All campaign funds,

1 including contributions subsequently received,
2 shall be used to repay the outstanding loan.

3 (b) For the purposes of this section, a "loan" does not
4 include expenditures made on behalf of a candidate committee by
5 a candidate, volunteer, or employee if:

6 (1) The candidate's, volunteer's, or employee's aggregate
7 expenditures do not exceed \$1,500 within a thirty-day
8 period;

9 (2) A dated receipt and a written description of the name
10 and address of each payee and the amount, date, and
11 purpose of each expenditure is provided to the
12 candidate committee before the candidate committee
13 reimburses the candidate, volunteer, or employee; and

14 (3) The candidate committee reimburses the candidate,
15 volunteer, or employee within forty-five days of the
16 expenditure being made.

17 **§11-56 Reporting loan; written loan agreement.** (a)

18 Every loan shall be reported as provided in section 11-26.

19 (b) Every loan in excess of \$100 shall be documented as
20 provided in section 11-26.

1 (c) A loan shall be treated as a contribution, subject to
2 all relevant provisions of this part, if the loan is not
3 reported or documented as provided in section 11-26.

4 **§11-57 Noncandidate committee loan prohibited.** A
5 noncandidate committee shall not receive or make a loan.

6 G. Expenditures

7 **§11-58 Campaign funds only used for certain purposes.**

8 (a) Campaign funds may be used by a candidate, treasurer, or
9 candidate committee:

10 (1) For any purpose directly related:

11 (A) In the case of the candidate, to the candidate's
12 own campaign; or

13 (B) In the case of a treasurer or candidate
14 committee, to the campaign of the candidate,
15 question, or issue with which they are directly
16 associated;

17 (2) To purchase or lease consumer goods, vehicles,
18 equipment, and services that provide a mixed benefit
19 to the candidate. The candidate, however, shall
20 reimburse the committee for the candidate's personal
21 use unless the personal use is de minimis;

- 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
5 contributions shall be no more than twice the maximum
6 amount that one person may contribute to that
7 candidate pursuant to section 11-_46; provided further
8 that no contributions shall be made from the date the
9 candidate files nomination papers to the date of the
10 general election;
- 11 (4) To make donations to any public school or library;
12 provided that any donation under this paragraph shall
13 not be subjected to and counted towards the limit
14 imposed in paragraph (3);
- 15 (5) To purchase not more than two tickets for each event
16 held by another candidate or committee, whether or not
17 the event constitutes a fundraiser as defined in
18 section 11-_35;
- 19 (6) To make contributions to the candidate's party so long
20 as the contributions are not earmarked for another
21 candidate; or

1 (7) To pay for ordinary and necessary expenses incurred in
2 connection with the candidate's duties as a holder of
3 an office.

4 (b) Campaign funds may be used for the candidate's next
5 subsequent election upon registration for the election pursuant
6 to section 11-_15.

7 **§11-_59 Prohibited uses of campaign funds.** Campaign funds
8 shall not be used:

9 (1) To support the campaigns of candidates other than the
10 candidate with which they are directly associated;

11 (2) To campaign against any other candidate not directly
12 opposing the candidate with which they are directly
13 associated; or

14 (3) For personal expenses.

15 **§11-_60 Exceptions.** Notwithstanding sections 11-_58 and
16 11-_59:

17 (1) A party may support more than one candidate; and

18 (2) A candidate for the office of governor or lieutenant
19 governor may support a co-candidate in the general
20 election.

21 **§11-_61 Disposition of campaign funds; termination of**
22 **registration.** (a) The candidate committee and candidate who

1 receives contributions for an election but fails to file
2 nomination papers for that election shall return residual funds
3 to the contributors no later than ninety days after the date on
4 which nominations for that election shall be filed. Funds not
5 returned to contributors shall escheat to the Hawaii election
6 campaign fund.

7 (b) The candidate committee and candidate who withdraws or
8 ceases to be a candidate for the election because of death,
9 disqualification, or other reasons shall return residual funds
10 to the contributors no later than ninety days after the
11 candidate ceases to be a candidate. Funds not returned to
12 contributors shall escheat to the Hawaii election campaign fund.

13 (c) A candidate and committee of a candidate elected to
14 office, including a candidate subject to term limits and a
15 candidate who resigned before the end of the term of office, may
16 use campaign funds as provided in section 11-58 or return funds
17 to contributors until four years from the date of the election
18 for which the campaign funds were received. Funds that are not
19 used or returned to contributors shall escheat to the Hawaii
20 election campaign fund.

21 (d) A candidate and committee of a candidate who lost in
22 an election may use campaign funds as provided in section 11-58

1 or return funds to contributors until one year from the date of
2 the election for which the campaign funds were received. Funds
3 that are not used or returned to contributors shall escheat to
4 the Hawaii election campaign fund.

5 (e) A candidate committee that disposes of campaign funds
6 pursuant to this section shall terminate registration with the
7 commission as provided in section 11-20.

8 (f) Notwithstanding any of the foregoing, campaign funds
9 may be used for the candidate's next subsequent election as
10 provided in section 11-58 upon registration for the election
11 pursuant to section 11-15.

12 (g) The commission shall adopt rules under chapter 91 for
13 carrying out the purposes of this section.

14 H. Advertisements

15 **§11-65 Advertisements.** (a) Any advertisement shall
16 contain:

17 (1) The name and address of the candidate, committee, or
18 other person paying for the advertisement; and

19 (2) A notice in a prominent location stating either:

20 (A) The advertisement is published, broadcast,
21 televised, or circulated with the approval and
22 authority of the candidate, provided that an

1 advertisement paid for by a candidate, candidate
2 committee, or ballot issue committee does not
3 have to include the notice; or

4 (B) The advertisement is published, broadcast,
5 televised, or circulated without the approval and
6 authority of the candidate.

7 (b) The fine for violating this section shall be a fine
8 not to exceed \$25 for each advertisement that lacks the
9 information required by this section and no more than \$5,000
10 aggregate.

11 **§11-66 House bulletins.** The costs of preparing,
12 printing, and circulating house bulletins and the writings,
13 drawings, and photographs contained therein, except for paid
14 advertisements, shall be exempt from the provisions of this
15 part.

16 I. Enforcement

17 **§11-70 Subpoena powers.** (a) The commission may subpoena
18 witnesses, examine them under oath, and require the production
19 of books, papers, documents, or objects, to the commission
20 office or at any place in the State whether or not the subpoena
21 is in connection with any hearing; provided that the person or

1 documents subpoenaed shall be relevant to a matter under study
2 or investigation by the commission.

3 (b) The books, papers, documents, or objects may be
4 retained by the commission for a reasonable period of time for
5 examination, audit, copying, testing, and photographing.

6 (c) The subpoena power shall be exercised by the
7 chairperson of the commission, or such other person as the
8 chairperson may designate.

9 (d) Upon application of the commission, obedience to the
10 subpoena shall be enforced by the circuit court in the county
11 where the person subpoenaed resides or is found, in the same
12 manner as a subpoena issued by a circuit court.

13 **§11-71 Filing of complaint.** (a) A person alleging
14 violations of this part shall file a complaint with the
15 commission.

16 (b) A complaint initiated by the commission shall be in
17 writing and signed by the executive director.

18 (c) A complaint by a person other than the executive
19 director shall be in writing, signed by the person filing the
20 complaint, and notarized.

21 **§11-72 Notice of complaint; opportunity to explain or**
22 **respond to complaint.** (a) The commission shall give notice of

1 receipt of the complaint and a copy of the complaint to the
2 respondent.

3 (b) The respondent may explain or otherwise respond in
4 writing to the complaint and explain or otherwise respond to the
5 complaint at a meeting promptly noticed by the commission and
6 conducted under chapter 92.

7 **§11-_73 Initial determination by the commission.** The
8 commission shall promptly determine, without regard to chapter
9 91, to:

- 10 (1) Summarily dismiss the complaint;
11 (2) Cause further investigation;
12 (3) Make a preliminary determination regarding probable
13 cause; or
14 (4) Refer the complaint for prosecution under section 11-
15 _80.

16 **§11-_74 Preliminary determination regarding probable**
17 **cause.** (a) Upon consideration of the response, if the
18 respondent explains or otherwise responds to the complaint, and
19 upon completion of any investigation, the commission may make a
20 prompt preliminary determination as to whether probable cause
21 exists that a violation of this part has been committed. The

1 preliminary determination with findings of fact and conclusions
2 of law shall be served upon the respondent by certified mail.

3 (b) The respondent shall be afforded an opportunity to
4 contest the commission's preliminary determination of probable
5 cause by making a request for a contested case hearing under
6 chapter 91 within twenty days of receipt of the preliminary
7 determination. Failure to request a contested case hearing
8 shall result in the commission's preliminary determination being
9 deemed a final determination of violation.

10 **§11-75 Waiver of further proceedings.** The commission may
11 waive further proceedings, including the filing of a complaint,
12 because of action the respondent takes to remedy or correct the
13 alleged violation, including the payment of any administrative
14 fine. The commission shall make the remedial or corrective
15 action taken by the respondent, the commission's decision in
16 light of the action to waive further proceedings, and the
17 commission's justification for its decision, a part of the
18 public record.

19 **§11-76 Contested case hearing.** (a) A contested case
20 hearing shall be conducted pursuant to chapter 91 and any rules
21 adopted by the commission.

1 (b) The hearing shall be before the commission or a duly
2 designated hearings officer. The commission or hearings officer
3 shall not be bound by strict rules of evidence when conducting a
4 hearing to determine whether a violation of this part has
5 occurred, and the degree or quantum of proof required shall be a
6 preponderance of the evidence.

7 (c) The commission or hearings officer, if there is no
8 dispute as to the facts involved in a particular matter, may
9 permit the parties to proceed by memoranda of law in lieu of a
10 hearing unless the procedure would unduly burden any party or is
11 otherwise not conducive to the ends of justice.

12 (d) A record shall be made of the proceeding.

13 (e) All parties shall be afforded full opportunity to
14 present evidence and argument on all issues involved.

15 (f) Any person who appears before the commission or
16 hearings officer shall have all of the rights, privileges, and
17 responsibilities of a witness appearing before the courts of
18 this State. All witnesses summoned before the commission or
19 hearings officer shall receive reimbursements as paid in like
20 circumstances in the courts of this State. Any person whose
21 name is mentioned during a proceeding before the commission or
22 hearings officer and who may be adversely affected thereby, may

1 appear or file a written statement for incorporation into the
2 record of the proceeding.

3 (g) A hearings officer shall render a recommended decision
4 for the commission's consideration. Any party adversely
5 affected by the decision may file written exceptions with the
6 commission within fifteen days after receipt of a copy of the
7 decision by certified mail.

8 (h) The commission, as expeditiously as possible, after
9 the close of the commission's hearing or receipt of the hearings
10 officer's recommended decision, shall issue its final
11 determination of violation together with separate findings of
12 fact and conclusions of law regarding whether a violation of
13 this part has been committed.

14 **§11-77 Dismissal.** The complaint shall be dismissed if
15 the commission makes a final determination that there is no
16 violation of this part.

17 **§11-78 Final determination of violation; order.** If the
18 commission makes a final determination of a violation of this
19 part, its written decision with findings of fact and conclusions
20 of law may order:

21 (1) The return of any contribution;

22 (2) The reimbursement of any unauthorized expenditure;

1 (3) The payment of any administrative fine to the general
2 fund of the State;

3 (4) The respondent to cease and desist violations of this
4 part; or

5 (5) Any report, statement, or other information required
6 by this part to be filed.

7 **§11-79 Administrative fines; relief.** (a) The commission
8 may make a decision or issue an order affecting any person
9 violating any provision of this part or section 281-22 that
10 shall provide for the assessment of an administrative fine as
11 follows:

12 (1) If a natural person, an amount not to exceed \$1,000
13 for each occurrence or an amount equivalent to three
14 times the amount of an unlawful contribution or
15 expenditure, whichever is greater; or

16 (2) If a corporation, organization, association, or labor
17 union, an amount not to exceed \$1,000 for each
18 occurrence; and

19 (3) Whenever a corporation, organization, association, or
20 labor union violates this part, the violation may be
21 deemed to be also that of the individual directors,
22 officers, or agents of the corporation, organization,

1 association, or labor union, who have knowingly
2 authorized, ordered, or done any of the acts
3 constituting the violation.

4 (b) Any order for the assessment of an administrative fine
5 may not be issued against a person without providing the person
6 written notice and an opportunity to be heard at a hearing
7 conducted under chapter 91. A person may waive these rights by
8 written stipulation or consent.

9 (c) If an administrative fine is imposed upon a candidate,
10 the commission may order that the fine, or any portion, be paid
11 from the candidate's personal funds.

12 (d) If the person to whom the commission's order is
13 directed does not comply with the order, the first circuit
14 court, upon application of the commission, shall issue an order
15 requiring the person to comply with the commission's order.
16 Failure to obey such a court order shall be punished as
17 contempt.

18 (e) Any administrative fine collected by the commission
19 shall be deposited in the general fund of the State.

20 (f) Any person or the commission may sue for injunctive
21 relief to compel compliance with this part.

1 (g) The provisions of this section shall not prohibit
2 prosecution under any appropriate provision of the Hawaii Penal
3 Code or section 11-81.

4 (h) The provisions of this section shall not apply to any
5 person who, prior to the commencement of proceedings under this
6 section, has paid or agreed to pay the fines prescribed by
7 sections 11-33 (b), (c), or (e) or 11-65 (b).

8 **§11-80 Criminal referral.** In lieu of an administrative
9 determination that a violation of this part has been committed,
10 the commission may refer the complaint to the attorney general
11 or county prosecutor at any time it believes that the respondent
12 may have recklessly, knowingly, or intentionally committed a
13 violation.

14 **§11-81 Criminal prosecution.** (a) Any person who
15 recklessly, knowingly, or intentionally violates any provision
16 of this part shall be guilty of a misdemeanor.

17 (b) Any person who knowingly or intentionally falsifies
18 any report required by this part with the intent to circumvent
19 the law or deceive the commission or who violates section 11-41
20 or 11-42 shall be guilty of a class C felony. A person charged
21 with a class C felony shall not be eligible for a deferred

1 acceptance of guilty plea or nolo contendere plea under chapter
2 853.

3 (c) A person who is convicted under this section shall be
4 disqualified from holding elective public office for a period of
5 four years from the date of conviction.

6 (d) For purposes of prosecution for violation of this
7 part, the offices of the attorney general and the prosecuting
8 attorney of the respective counties shall be deemed to have
9 concurrent jurisdiction to be exercised as follows:

10 (1) Prosecution shall commence with a written request from
11 the commission or upon the issuance of an order of the
12 court; provided that prosecution may commence prior to
13 any proceeding initiated by the commission or final
14 determination;

15 (2) In the case of state offices, parties, or issues, the
16 attorney general or the prosecuting attorney for the
17 city and county of Honolulu shall prosecute any
18 violation; and

19 (3) In the case of all other offices, parties, or issues,
20 the attorney general or the prosecuting attorney for
21 the respective county shall prosecute any violation.

1 In the commission's choice of prosecuting agency, it shall
2 be guided by whether there will be any conflicting interest
3 between the agency and its appointive authority.

4 (e) The court shall give priority to the expeditious
5 processing of prosecutions under this section.

6 (f) Prosecution for violations of this part shall not be
7 commenced after five years have elapsed from the date of the
8 violation or date of filing of the report covering the period in
9 which the violation occurred, whichever is later.

10 (g) The provisions of this section shall not apply to any
11 person who, prior to the commencement of proceedings under this
12 section, has paid or agreed to pay the fines prescribed by
13 sections 11-33(b), (c), or (e) or 11-65(b).

14 J. Partial Public Financing

15 **§11-85 Hawaii election campaign fund; creation.** (a) The
16 Hawaii election campaign fund is created as a trust fund within
17 the state treasury.

18 (b) The fund shall consist of:

19 (1) All moneys collected from persons who have designated
20 a portion of their income tax liability to the fund as
21 provided in section 235-102.5;

22 (2) Any general fund appropriations; and

1 (3) Other moneys collected pursuant to this part.

2 (c) Moneys in this fund shall be paid to candidates by the
3 comptroller as prescribed in section 11-_96 and may be used for
4 the commission's operating expenses, including staff salaries
5 and fringe benefits.

6 **§11-_86 Depletion of fund.** (a) The commission shall be
7 under no obligation to provide moneys to candidates unless there
8 are two years of budgeted expenses in reserve in the Hawaii
9 election campaign fund.

10 (b) If the commission determines that the Hawaii election
11 campaign fund is unable to fund all requests for public funds
12 for the partial public funding program and comprehensive public
13 funding program for elections to the county of Hawaii council
14 the amounts available to candidates from the fund shall be based
15 on the date an application for public funds filed pursuant to
16 section 11-_95 is approved by the commission.

17 **§11-_87 Voluntary expenditure limits; filing affidavit.**

18 (a) A candidate may file an affidavit with the commission
19 agreeing to limit aggregate expenditures by the candidate,
20 including coordinated activity by any person for the benefit of
21 the candidate in cooperation, consultation, or concert with, or
22 at the request or suggestion of the candidate, candidate

1 committee, or their agents, to the amounts specified in
2 subsection (d).

3 (b) The affidavit shall be subscribed by the candidate,
4 notarized, and filed no later than the time of filing nomination
5 papers with the chief election officer or county clerk.

6 (c) The affidavit shall remain effective until the
7 termination of the candidate committee or the opening of filing
8 of nomination papers for the next succeeding election, whichever
9 occurs first. An affidavit filed under this section may not be
10 rescinded.

11 (d) From January 1 of the year of any primary, first
12 special, or first nonpartisan, general, second special, or
13 second nonpartisan election, aggregate expenditures for each
14 election by a candidate who filed the affidavit pursuant to
15 subsection (a) shall not exceed the number of registered voters
16 in the last preceding general, second special, or second
17 nonpartisan election in each respective voting district
18 multiplied by the following amounts:

19 (1) For the office of governor—\$2.50;

20 (2) For the office of lieutenant governor—\$1.40;

21 (3) For the office of mayor—\$2.00;

1 (4) For the offices of state senator, state
2 representative, and county council member—\$1.40; and

3 (5) For the offices of Hawaiian affairs and the board of
4 education and all other offices—20 cents.

5 **§11-88 Reduced filing fee.** A candidate who files the
6 affidavit pursuant to section 11-87 shall receive a discounted
7 filing fee as provided in section 12-6.

8 **§11-89 Tax deduction for qualifying contributions.** (a)
9 An individual resident of Hawaii may claim a state income tax
10 deduction pursuant to section 235-7(g)(2), for contributions to
11 a candidate who files an affidavit pursuant to section 11-87
12 and complies with the expenditure limit.

13 (b) The commission shall forward a copy of the affidavit
14 to the director of taxation upon request.

15 (c) If a candidate has not filed the affidavit, the
16 candidate shall inform all contributors in writing immediately
17 upon receipt of the contribution that they are not entitled to a
18 tax deduction for their contributions to the candidate and the
19 director of taxation shall not allow any contributor to take a
20 deduction, pursuant to section 235-7(g)(2), for any contribution
21 to the candidate.

1 (d) The affidavit shall remain effective until the
2 termination of the candidate committee or the opening of filing
3 of nomination papers for the next succeeding election, whichever
4 occurs first. An affidavit filed under this section may not be
5 rescinded.

6 **§11-90 Maximum amount of public funds available to**
7 **candidate.** (a) The maximum amount of public funds available in
8 each election to a candidate for the office of governor,
9 lieutenant governor, or mayor shall not exceed ten per cent of
10 the expenditure limit established in section 11-87(d) for each
11 election.

12 (b) The maximum amount of public funds available in each
13 election to a candidate for the office of state senator, state
14 representative, county council member, and prosecuting attorney
15 shall not exceed fifteen per cent of the expenditure limit
16 established in section 11-87(d) for each election.

17 (c) For the office of Hawaiian affairs, the maximum amount
18 of public funds available to a candidate shall not exceed \$1,500
19 in any election year.

20 (d) For the board of education and all other offices, the
21 maximum amount of public funds available to a candidate shall
22 not exceed \$100 in any election year.

1 **§11-91 Candidate exceeds voluntary expenditure limit.** A
2 candidate who files the affidavit agreeing to limit expenditures
3 and who exceeds the expenditure limit for that election shall:

4 (1) Notify all opponents, the chief election officer, and
5 the commission by telephone and writing on the day the
6 expenditure limit is exceeded;

7 (2) Immediately return all public funds to the commission;

8 (3) Pay the balance of the full filing fee to the chief
9 election officer; and

10 (4) Provide reasonable notice to all contributors within
11 thirty days of exceeding the limit that the
12 expenditure limit was exceeded and contributions to
13 the candidate no longer qualify for a state income tax
14 deduction.

15 **§11-92 Reserving use of contributions.** A candidate who
16 files the affidavit voluntarily agreeing to limit expenditures
17 and who receives contributions that in aggregate exceed the
18 expenditure limit for an election shall reserve use of any
19 contributions that exceed the limit until after the applicable
20 election.

- 1 **§11-93 Eligibility requirements for public funds.** In
2 order to be eligible to receive public funds for an election, a
3 candidate shall meet all the following requirements:
- 4 (1) The candidate is qualified to be on the ballot in the
5 election and is opposed by another candidate for
6 the same office in the same election;
- 7 (2) The candidate shall mail or deliver to the commission:
- 8 (A) A statement of intent to seek public funds;
- 9 (B) The affidavit required by section 11-87 no later
10 than the time of filing nomination papers with
11 the chief election officer or county clerk;
- 12 (C) A copy of the electronically filed statement of
13 qualifying contributions, provided that
14 contributions received before filing the
15 statement of intent to seek public funds are not
16 qualifying contributions; and
- 17 (D) An application for public funds;
- 18 (3) The candidate electronically files a statement of
19 qualifying contributions;
- 20 (4) The candidate agrees to obtain and furnish any
21 evidence relating to expenditures which the commission
22 may request;

1 (5) The candidate agrees to keep and furnish records,
2 books, and other information which the commission may
3 request; and

4 (6) The candidate agrees to an audit and examination by
5 the commission pursuant to section 11-_99 and to pay
6 any amounts required to be paid pursuant to that
7 section.

8 **§11-_94 Minimum qualifying contribution amounts;**

9 **qualifying contribution statement.** (a) A candidate is required
10 to receive the following minimum qualifying contribution amounts
11 during the matching payment period:

12 (1) For the office of governor-qualifying contributions
13 that in the aggregate, exceed \$100,000;

14 (2) For the office of lieutenant governor-qualifying
15 contributions that in the aggregate, exceed \$50,000;

16 (3) For the office of mayor for each respective county:

17 (A) County of Honolulu-qualifying contributions that
18 in the aggregate, exceed \$50,000;

19 (B) County of Hawaii-qualifying contributions that in
20 the aggregate, exceed \$15,000;

21 (C) County of Maui-qualifying contributions that in
22 the aggregate, exceed \$10,000; and

1 (D) County of Kauai—qualifying contributions that in
2 the aggregate, exceed \$5,000; and

3 (4) For the office of prosecuting attorney for each
4 respective county:

5 (A) County of Honolulu—qualifying contributions that
6 in the aggregate, exceed \$30,000;

7 (B) County of Hawaii—qualifying contributions that in
8 the aggregate, exceed \$10,000; and

9 (C) County of Kauai—qualifying contributions that in
10 the aggregate, exceed \$5,000;

11 (5) For the office of county council—for each respective
12 county:

13 (A) County of Honolulu--qualifying contributions that
14 in the aggregate, exceed \$5,000;

15 (B) County of Hawaii—qualifying contributions that in
16 the aggregate, exceed \$1,500;

17 (C) County of Maui—qualifying contributions that in
18 the aggregate, exceed \$5,000; and

19 (D) County of Kauai—qualifying contributions that in
20 the aggregate, exceed \$3,000;

21 (6) For the office of state senator—qualifying
22 contributions that, in the aggregate, exceed \$2,500;

1 (7) For the office of state representative—qualifying
2 contributions that, in the aggregate, exceed \$1,500;

3 (8) For the office of Hawaiian affairs—qualifying
4 contributions that, in the aggregate, exceed \$1,500;
5 and

6 (9) For the board of education and all other offices,
7 qualifying contributions that, in the aggregate,
8 exceed \$500.

9 (b) A candidate shall obtain the minimum qualifying
10 contribution amount set forth in subsection (a), once for the
11 election period.

12 (1) If the candidate, except for a candidate for the
13 office of Hawaiian affairs and the board of education,
14 obtains the minimum qualifying contribution amount,
15 the candidate is eligible to receive:

16 (A) The minimum payment in an amount equal to the
17 minimum qualifying contribution amounts; and

18 (B) Payments of \$1 for each \$1 of qualifying
19 contributions in excess of the minimum qualifying
20 contribution amounts.

21 (2) A candidate for the office of Hawaiian affairs who
22 obtains the minimum qualifying contribution amount is

1 eligible to receive a maximum of \$1,500 in any
2 election year.

3 (3) A candidate for the board of education who obtains the
4 minimum qualifying contribution amount is eligible to
5 receive a maximum of \$100 in any election year

6 (c) The candidate shall not receive more than the maximum
7 amount of public funds available to a candidate pursuant to
8 section 11-90; provided that the candidate shall not receive
9 public funds for a primary, first special, or first nonpartisan
10 primary election if the candidate does not obtain the minimum
11 qualifying contribution amounts before the date of the primary,
12 first special, or first nonpartisan primary election.

13 (d) The candidate shall obtain the minimum qualifying
14 contribution amount before submitting the initial application
15 for public funds.

16 (e) The statement of qualifying contributions shall
17 include:

18 (1) The printed names and addresses of the individual
19 residents of Hawaii who made the qualifying
20 contribution during the matching payment period, and

21 (2) The amount and date of deposit of each qualifying
22 contribution.

1 (f) As used in this section, "matching payment period"

2 means:

3 (1) For a primary, first special, or first nonpartisan
4 election, from January 1 of the year of the election
5 through the day of the primary, first special, or
6 first nonpartisan primary election; and

7 (2) For a general, second special, or second nonpartisan
8 election, from January 1 of the year of a general
9 election through the day of the general, second
10 special, or second nonpartisan election.

11 **§11-95 Application for public funds.** (a) Each

12 application for public funds shall be:

13 (1) Signed by the candidate and notarized; and

14 (2) Accompanied by a copy of the electronically filed
15 statement of qualifying contributions.

16 (b) The application shall be mailed or delivered to the
17 commission no later than thirty days after the general election.

18 (c) A candidate who receives funds for a primary, first
19 special, or first nonpartisan primary election and is a
20 candidate in the subsequent general, second special, or second
21 nonpartisan election is required to mail or deliver another

1 application to the commission to receive public funds for the
2 subsequent election.

3 **§11-96 Payment to candidate.** (a) Upon the commission's
4 approval of the application and statement of qualifying
5 contributions, the commission shall direct the comptroller to
6 distribute matching public funds up to the maximum amount of
7 public funds allowed by section 11-90. Public funds shall be
8 distributed to the candidate within twenty days from the date
9 the candidate's initial application and qualifying contribution
10 statement is approved by the commission.

11 (b) The commission shall make additional determinations
12 within fourteen days after receiving a complete application and
13 supplemental statement of qualifying contributions from a
14 candidate.

15 (c) All determinations made by the commission under this
16 section are final and conclusive, except to the extent they are
17 subject to examination and audit by the commission under section
18 11-99.

19 **§11-97 Use of public funds.** (a) Public funds shall be
20 deposited in a depository institution, as defined in section
21 412:1-109, duly authorized to do business in the State, such as
22 a bank, savings bank, savings and loan association, depository

1 financial services loan company, credit union, intra-Pacific
2 bank, or similar financial institution, the deposits or accounts
3 of which are insured by the Federal Deposit Insurance
4 Corporation, or the National Credit Union Administration.

5 (b) No expenditures of any public funds shall be made
6 except by checks drawn on such checking account.

7 (c) Public funds shall be only used to:

8 (1) Defray expenditures of the candidate; and

9 (2) Repay loans, the proceeds of which were used to defray
10 expenditures.

11 (d) Public funds shall not be transferred to another
12 candidate for any election.

13 (e) Unexpended public funds shall be returned to the
14 commission by the deadline for filing the final report for the
15 election that the funds were received for.

16 **§11-98 Post-election report required.** The treasurer
17 shall electronically submit an expenditure of public funds
18 report to the commission no later than twenty days after a
19 primary, first special, or first nonpartisan primary election
20 and no later than thirty days after a general, second special,
21 or second nonpartisan election certifying that all public funds
22 paid to the candidate have been used as required by this part.

1 **§11-99 Post-election examination and audit; return of**
2 **funds.** (a) The commission shall examine and audit the public
3 funds received by all candidates, qualifying contributions, and
4 the expenditures made by all candidates within sixty days after
5 each general, second special, or second nonpartisan election.

6 (b) The commission shall promulgate rules regarding
7 expenditures which qualify under section 11-97.

8 (c) If the commission determines that any payment of
9 public funds to a candidate exceeded the aggregate amount to
10 which the candidate was entitled, the commission shall notify
11 the candidate within two years of the payment of the public
12 funds and the candidate shall repay the excess amount to the
13 Hawaii election campaign fund. If the commission does not
14 notify the candidate within two years the excess payment does
15 not have to be repaid.

16 (d) If the commission determines that any public funds
17 were used for any improper purpose, the commission shall notify
18 the candidate, and the candidate shall pay to the Hawaii
19 election campaign fund an amount equal to three hundred per cent
20 of such amount in addition to any fines under section 11-79 and
21 section 11-81.

1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 6. Any Act relating to Hawaii Revised Statutes
4 chapter 11, part XII, subpart B passed by the legislature during
5 this Regular Session of 2009, whether enacted before or after
6 the effective date of this Act, shall be effective according to
7 its terms, notwithstanding the passage of this Act, and any
8 provision of this Act which is contrary to such act shall be
9 amended to conform to that act, regardless of the effective date
10 of that act. The revisor of statutes shall incorporate the
11 terms of any such act into their appropriate places in this Act.

12 SECTION 7. In codifying the new sections added by part II
13 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the numbers used in designating
15 the new sections in this Act.

16 SECTION 8. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 9. This Act shall take effect on January 1, 2010.

Report Title:

Elections; campaign spending.

Description:

Organizes, clarifies, updates, and recodifies campaign finance laws and allows use of campaign funds to make donations to public schools and libraries.