



GOV. MSG. NO. 703

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 7, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: House Bill No. 2003 HD3 SD2

On July 6, 2010, House Bill No. 2003, entitled "A Bill for an Act Relating to Campaign Financing" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The primary purpose of this bill is to repeal and recodify, Chapter 11 of Hawaii Revised Statutes, the campaign spending laws.

I understand the need for a recodification of the campaign finance statute, and support such efforts to clarify their applicability. Nevertheless, although this measure is improved from House Bill No. 128 HD1 SD1 CD2, that I vetoed last year, it still retains certain provisions that were grounds for that veto with which I still have concerns. It also contains new provisions that raise equity issues.

First, this bill increases the limit on campaign contributions by nonresidents from the twenty percent presently specified in section 11-204.5, Hawaii Revised Statutes, to thirty percent of the total contributions received by a candidate or candidate committee in an election period. The Administration has taken the position that full disclosure of all contributions both Hawaii and mainland-based is more appropriate than artificial or politically-motivated limits on these contributions.

Second, this bill adds a new section that requires corporations to file reports with the Commission if they give donations of \$1,000 or more in the aggregate. However, this provision does not apply to labor unions or related associations that may also contribute and who, as a matter of equity, should be subject to the same reporting requirements.

The Honorable Colleen Hanabusa, President
and Members of the Senate
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For the foregoing reasons, I allowed House Bill No. 2003 to become law as Act 211, effective July 6, 2010, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO CAMPAIGN FINANCING.

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

1 **PART I**

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

4 The laws have their genesis in Act 185, Session Laws of
5 Hawaii 1973. Over the past thirty-seven 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 resulting laws are unorganized, difficult
9 to read, and inconsistent in some areas. The current campaign
10 finance laws are codified in part XII, subpart B of chapter 11,
11 Hawaii 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 current campaign finance laws that
17 require a reader to search through the entire subpart for laws
18 that may apply to that one subject.



1 This Act is a product of the campaign spending commission's
2 blue ribbon recodification committee (committee). The committee
3 completed its work in 2008 after meeting regularly for nine
4 months. The committee comprised the commission's staff and
5 seventeen attorneys who were experienced in campaign finance law
6 and who represented various interests.

7 The purpose of this Act is to update, organize, and clarify
8 current campaign finance laws and make minor substantive changes
9 to the current laws.

10 **PART II**

11 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
12 by adding a new part to be appropriately designated and to read
13 as follows:

14 **"PART . CAMPAIGN FINANCE**

15 **A. General Provisions**

16 **§11-A Purpose.** The purpose of this part is to provide
17 transparency in the campaign finance process. Any ambiguity in
18 the provisions of this part shall be construed to support
19 transparency.

20 **§11-B Definitions.** When used in this part:

21 "Advertisement" means any communication, excluding sundry
22 items such as bumper stickers, that:



1 (1) Identifies a candidate directly or by implication, or
2 identifies an issue or question that will appear on
3 the ballot at the next applicable election; and

4 (2) Advocates or supports the nomination, opposition, or
5 election of the candidate, or advocates the passage or
6 defeat of the issue or question on the ballot.

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

12 "Campaign funds" means contributions, interest, rebates,
13 refunds, loans, or advances received by a candidate committee or
14 noncandidate committee.

15 "Candidate" means an individual who seeks nomination for
16 election or seeks election to office. An individual remains a
17 candidate until the individual's candidate committee terminates
18 registration with the commission. An individual is a candidate
19 if the individual does any of the following:

20 (1) Files nomination papers for an office for the
21 individual with the county clerk's office or with the



- 1 chief election officer's office, whichever is
2 applicable;
- 3 (2) Receives contributions, makes expenditures, or incurs
4 financial obligations of more than \$100 to bring about
5 the individual's nomination for election, or to bring
6 about the individual's election to office;
- 7 (3) Gives consent for any other person to receive
8 contributions, make expenditures, or incur financial
9 obligations to aid the individual's nomination for
10 election, or the individual's election, to office; or
- 11 (4) Is certified to be a candidate by the chief election
12 officer or county clerk.

13 "Candidate committee" means an organization, association,
14 or individual that receives campaign funds, makes expenditures,
15 or incurs financial obligations on behalf of a candidate with
16 the candidate's authorization.

17 "Clearly identified" means the inclusion of name,
18 photograph or other similar image, or other unambiguous
19 identification of a candidate.

20 "Commission" means the campaign spending commission.

21 "Commissioner" means any person appointed to the
22 commission.



1 "Contribution" means:

2 (1) A gift, subscription, deposit of money or anything of
3 value, or cancellation of a debt or legal obligation
4 and includes the purchase of tickets to fundraisers,
5 for the purpose of:

6 (A) Influencing the nomination for election, or the
7 election, of any person to office;

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 candidate committee or noncandidate
12 committee for the purpose of subparagraph (A) or
13 (B);

14 (2) The payment, by any person or party other than a
15 candidate, candidate committee, or noncandidate
16 committee, of compensation for the services of another
17 person that are rendered to the candidate, candidate
18 committee, or noncandidate committee without charge or
19 at an unreasonably low charge for a purpose listed in
20 paragraph (1);

21 (3) A contract, promise, or agreement to make a
22 contribution; or



1 (4) Any loans or advances that are not documented or
2 disclosed to the commission as provided in section
3 11-SS;

4 "Contribution" does not include:

5 (1) Services voluntarily provided without compensation by
6 individuals to or on behalf of a candidate, candidate
7 committee, or noncandidate committee;

8 (2) A candidate's expenditure of the candidate's own
9 funds; provided that this expenditure shall be
10 reportable as other receipts and expenditures;

11 (3) Any loans or advances to the candidate committee;
12 provided that these loans or advances shall be
13 reported as loans; or

14 (4) An individual, candidate committee, or noncandidate
15 committee engaging in internet activities for the
16 purpose of influencing an election if:

17 (A) The individual, candidate committee, or
18 noncandidate committee is uncompensated for the
19 internet activities; or

20 (B) The individual, candidate committee, or
21 noncandidate committee uses equipment or services



1 for uncompensated internet activities, regardless
2 of who owns the equipment and services.

3 "Earmarked funds" means contributions received by a
4 candidate committee or noncandidate committee on the condition
5 that the funds be contributed to or expended on certain
6 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;

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; or

18 (3) For a special election, the period between the day
19 after the general election for that office through the
20 day of the special election.

21 "Equipment and services" includes computers, software,
22 internet domain names, internet service providers, and any other



1 technology that is used to provide access to or use of the
2 Internet.

3 "Expenditure" means:

4 (1) Any purchase or transfer of money or anything of
5 value, or promise or agreement to purchase or transfer
6 money or anything of value, or payment incurred or
7 made, or the use or consumption of a nonmonetary
8 contribution for the purpose of:

9 (A) Influencing the nomination for election, or the
10 election, of any person seeking nomination for
11 election or election to office, whether or not
12 the person has filed the person's nomination
13 papers;

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

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

19 (2) Any payment, by any person other than a candidate,
20 candidate committee, or noncandidate committee, of
21 compensation for the services of another person that
22 are rendered to the candidate, candidate committee, or



1 noncandidate committee for any of the purposes
2 mentioned in paragraph (1)(A); provided that payment
3 under this paragraph shall include provision of
4 services without charge; or

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

7 "Expenditure" does not include:

8 (1) Services voluntarily provided without compensation by
9 individuals to or on behalf of a candidate, candidate
10 committee, or noncandidate committee;

11 (2) Voter registration efforts that are nonpartisan; or

12 (3) An individual, candidate committee, or noncandidate
13 committee engaging in internet activities for the
14 purpose of influencing an election if:

15 (A) The individual, candidate committee, or
16 noncandidate committee is uncompensated for
17 internet activities; or

18 (B) The individual, candidate committee, or
19 noncandidate committee uses equipment or services
20 for uncompensated internet activities, regardless
21 of who owns the equipment and services;



1 provided that the internet activity exclusion does not
2 apply to any payment for an advertisement other than a
3 nominal fee; the purchase or rental of an electronic
4 address list made at the direction of a candidate
5 committee or noncandidate committee; or an electronic
6 mail address list that is transferred to a candidate
7 committee or noncandidate 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, as defined in section 572C-3, and any child,
13 parent, grandparent, brother, or sister of the candidate, and
14 the spouses or reciprocal beneficiaries of such persons.

15 "Independent expenditure" means an expenditure by a person
16 expressly advocating the election or defeat of a clearly
17 identified candidate that is not made in concert or cooperation
18 with or at the request or suggestion of the candidate, the
19 candidate committee, a party, or their agents.

20 "Individual" means a natural person.

21 "Internet activities" include:

22 (1) Sending or forwarding electronic messages;



- 1 (2) Providing a hyperlink or other direct access to
- 2 another person's website;
- 3 (3) Blogging;
- 4 (4) Creating, maintaining, or hosting a website;
- 5 (5) Paying a nominal fee for the use of another person's
- 6 website; and
- 7 (6) Any other form of communication distributed over the
- 8 Internet.

9 "Limited liability company" means a business entity that is
10 recognized as a limited liability company under the laws of the
11 state in which it is established.

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

- 17 (1) The candidate, volunteer, or employee's aggregate
- 18 expenditures do not exceed \$1,500 within a thirty-day
- 19 period;
- 20 (2) A dated receipt and a written description of the name
- 21 and address of each payee and the amount, date, and
- 22 purpose of each expenditure is provided to the



1 candidate committee or noncandidate committee before
2 the candidate committee or noncandidate committee
3 reimburses the candidate, volunteer, or employee; and

4 (3) The candidate committee or noncandidate committee
5 reimburses the candidate, volunteer, or employee
6 within forty-five days of the expenditure being made.

7 "Newspaper" means a publication of general distribution in
8 the State issued once or more per month, which is written and
9 published in the State.

10 "Noncandidate committee" means an organization,
11 association, party, or individual that has the purpose of making
12 or receiving contributions, making expenditures, or incurring
13 financial obligations to influence the nomination for election,
14 or the election, of any candidate to office, or for or against
15 any question or issue on the ballot; provided that a
16 noncandidate committee does not include:

- 17 (1) A candidate committee;
- 18 (2) Any individual making a contribution or making an
19 expenditure of the individual's own funds or anything
20 of value that the individual originally acquired for
21 the individual's own use and not for the purpose of
22 evading any provision of this part; or



1 (3) Any organization that raises or expends funds for the
2 sole purpose of producing and disseminating
3 informational or educational communications that are
4 not made to influence the outcome of an election,
5 question, or issue on a ballot.

6 "Office" means any Hawaii elective public or constitutional
7 office, excluding county neighborhood board and federal elective
8 offices.

9 "Other receipts" means the candidate's own funds, interest,
10 rebates, refunds, and any other funds received by a candidate
11 committee or noncandidate committee, but does not include
12 contributions received from other persons or loans.

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

15 "Person" means an individual, a partnership, a candidate
16 committee or noncandidate committee, a party, an association, a
17 corporation, a business entity, an organization, or a labor
18 union and its auxiliary committees.

19 "Political committees established and maintained by a
20 national political party" means:

21 (1) The National Committee;

22 (2) The House Campaign Committee; and



1 (3) The Senate Campaign Committee.

2 "Qualifying contribution" means an aggregate monetary
3 contribution of \$100 or less by an individual Hawaii resident
4 during a matching payment period that is received after a
5 candidate files a statement of intent to seek public funds. A
6 qualifying contribution does not include a loan, an in-kind
7 contribution, or the candidate's own funds.

8 "Special election" means any election other than a primary
9 or general election.

10 "Treasurer" means a person appointed under section 11-M and
11 unless expressly indicated otherwise, includes deputy
12 treasurers.

13 **B. Campaign Spending Commission**

14 **§11-C Campaign spending commission established;**

15 **composition.** (a) There is established a campaign spending
16 commission, which shall be placed within the department of
17 accounting and general services for administrative purposes.

18 (b) The commission shall consist of five members
19 representing the general public and who are appointed by the
20 governor from a list of ten nominees submitted by the judicial
21 council. A vacancy on the commission shall be filled from the
22 list of nominees or by the reappointment of a commissioner whose



1 term has expired, subject to the limit on length of service
2 imposed by section 26-34. The judicial council shall meet and
3 expeditiously select additional persons for the list of nominees
4 whenever the number of the eligible nominees falls below five.
5 Notwithstanding section 26-34, appointments to the commission
6 shall not be subject to the advice and consent of the senate.

7 (c) The judicial council may solicit applications for the
8 list of nominees through community organizations and
9 advertisements in any newspaper.

10 **§11-D Terms of office.** The term of each commissioner
11 shall be four years.

12 **§11-E No compensation.** The commissioners shall serve
13 without compensation but shall be reimbursed for reasonable
14 expenses, including travel expenses, incurred in the discharge
15 of their duties.

16 **§11-F Duties of the commission.** The duties of the
17 commission under this part are to:

- 18 (1) Develop and adopt forms required by this part;
19 (2) Adopt and publish a manual for all candidates,
20 candidate committees, and noncandidate committees,
21 describing the requirements of this part, including
22 uniform and simple methods of recordkeeping;



- 1 (3) Preserve all reports required by this part for, at
2 least ten years from the date of receipt by the
3 commission;
- 4 (4) Permit the inspection, copying, or duplicating of any
5 report required by this part pursuant to rules adopted
6 by the commission under chapter 91; provided that this
7 paragraph shall not apply to the sale or use of
8 information under section 11-CC;
- 9 (5) Ascertain whether any candidate, candidate committee,
10 noncandidate committee, or party has failed to file a
11 report required by this part or has filed a
12 substantially defective or deficient report. The
13 commission shall notify these persons by first class
14 mail that a fine may be assessed for the failure to
15 file or the filing of a substantially defective or
16 deficient report, and the defective or deficient
17 report shall be corrected and explained. All fines
18 collected under this section as authorized by section
19 11-JJJ shall be deposited in the general fund of the
20 State;
- 21 (6) Hold public hearings;



- 1 (7) Investigate and hold hearings for receiving evidence
2 of any violations pursuant to subpart I of this part;
- 3 (8) Adopt rules pursuant to chapter 91;
- 4 (9) Request the initiation of prosecution for the
5 violation of this part pursuant to section 11-KKK;
- 6 (10) Administer and monitor the distribution of public
7 funds under this part;
- 8 (11) Suggest accounting methods for candidates, candidate
9 committees, or noncandidate committees in connection
10 with reports and records required by this part;
- 11 (12) Employ or contract with, without regard to chapters
12 76, 78, and 89, persons it finds necessary for the
13 performance of its functions, including a full-time
14 executive director, and to fix their compensation;
15 provided that the commission shall have the authority,
16 at its discretion, to dismiss persons employed by or
17 contracted with the commission;
- 18 (13) Conduct random audits and field investigations, as
19 necessary; and
- 20 (14) File for injunctive relief when indicated.

21 **§11-G Advisory opinions.** The commission may render
22 written advisory opinions upon the request of any candidate,



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

18 **§11-H Political activities prohibited.** (a) No
19 commissioner or employee of the commission shall participate in
20 any political campaign, including making a contribution to a
21 candidate, candidate committee, or noncandidate committee,



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

3 (b) Each commissioner and employee of the commission shall
4 retain the right to:

- 5 (1) Register and vote in any election;
- 6 (2) Participate in the nonpolitical activities of a civic,
7 community, social, labor, or professional
8 organization, or of a similar organization;
- 9 (3) Be a member of a political party or other noncandidate
10 political organization and participate in its
11 activities to the extent consistent with law; and
- 12 (4) Otherwise participate fully in public affairs, except
13 as prohibited by law, in a manner that does not
14 materially compromise the commissioner's or the
15 employee's efficiency or integrity as a commissioner
16 or employee or the neutrality, efficiency, or
17 integrity of the commission.

18 (c) Any commissioner or employee of the commission may
19 request an advisory opinion from the state ethics commission to
20 determine whether a particular activity constitutes or would
21 constitute a violation of the code of ethics under part II of
22 chapter 84 or this section.



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

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

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

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

12 (b) The commission shall follow and be subject to all
13 applicable personnel laws.

14 **C. Registration**

15 **§11-J Registration of candidate committee or noncandidate**
16 **committee.** (a) Each candidate committee or noncandidate
17 committee shall register with the commission by filing an
18 organizational report as set forth in section 11-K or 11-L, as
19 applicable.

20 (b) Before filing the organizational report, each
21 candidate committee or noncandidate committee shall mail or
22 deliver an electronic filing form to the commission.



1 (c) The electronic filing form shall include a written
2 acceptance of appointment and certification of each report, as
3 follows:

4 (1) A candidate committee shall file a written acceptance
5 of appointment by the chairperson and treasurer and a
6 certification by the candidate and treasurer of each
7 filed report; or

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

12 (d) The organizational report for a candidate committee
13 shall be filed within ten days of the earlier of:

14 (1) The date the candidate files nomination papers for
15 office; or

16 (2) The date the candidate or candidate committee receives
17 contributions or makes or incurs expenditures of more
18 than \$100 in the aggregate during the applicable
19 election period.

20 (e) An organizational report need not be filed under this
21 section by an elected official who is a candidate for reelection
22 to the same office in successive elections and has not sought



1 election to any other office during the period between
2 elections, unless the candidate is required to report a change
3 in information pursuant to section 11-L.

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

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

14 **§11-K Organizational report, candidate committee. (a)**

15 The candidate committee organizational report shall include:

- 16 (1) The committee's name and address, including web page
17 address, if any;
- 18 (2) The candidate's name, address, and telephone number;
- 19 (3) The office being sought by the candidate, district,
20 and party affiliation;
- 21 (4) The chairperson's name and address and, if appointed,
22 the deputy chairperson's name and address;



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

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

18 **§11-L Organizational report, noncandidate committee. (a)**

19 The noncandidate committee organizational report shall include:

- 20 (1) The committee's name, which shall incorporate the full
21 name of the sponsoring entity, if any. An acronym or
22 abbreviation may be used in other communications if



1 the acronym or abbreviation is commonly known or
2 clearly recognized by the general public. The
3 committee's name shall not include the name of a
4 candidate;

5 (2) The committee's address, including web page address,
6 if any;

7 (3) The area, scope, or jurisdiction of the committee;

8 (4) The name and address of the committee's sponsoring
9 entity. If the committee does not have a sponsoring
10 entity, the committee shall specify the trade,
11 profession, or primary interest of contributors to the
12 committee;

13 (5) The name, address, telephone number, occupation, and
14 principal place of business of the chairperson;

15 (6) The name, address, telephone number, occupation, and
16 principal place of business of the treasurer and any
17 other officers;

18 (7) An indication as to whether the committee was formed
19 to support or oppose a specific ballot question or
20 candidate and, if so, a brief description of the
21 question or the name of the candidate;



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



1 the day it files an organizational report. The following shall
2 be permissible:

3 (1) Up to five deputy treasurers may be appointed;

4 (2) A candidate may be appointed as the treasurer or
5 deputy treasurer; and

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

10 (b) A treasurer may resign or be removed at any time.

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

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

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



- 1 (1) The amount of each monetary contribution;
- 2 (2) The description and value of each nonmonetary
- 3 contribution; and
- 4 (3) The name and address of each contributor making a
- 5 contribution of more than \$25 in value; provided that
- 6 information regarding the employer and occupation of
- 7 contributors shall also be collected and maintained
- 8 for a noncandidate committee.

9 (f) The treasurer shall maintain detailed accounts, bills,

10 receipts, and other records to establish that reports were

11 properly prepared and filed.

12 (g) The records shall be retained for at least five years

13 after the report is filed.

14 **§11-N When an individual may not serve as a committee**

15 **officer.** No candidate committee or noncandidate committee that

16 supports or opposes a candidate shall have an officer who serves

17 as an officer on any other candidate committee or noncandidate

18 committee that supports or opposes the same candidate.

19 **§11-O Termination of candidate committee's or noncandidate**

20 **committee's registration.** A candidate committee or noncandidate

21 committee may terminate its registration if:

22 (1) The candidate committee or noncandidate committee:



- 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 **§11-P Ballot issue committee; contributions and**

11 **expenditures.** (a) A ballot issue committee shall receive
12 contributions or make expenditures only for or against any issue
13 appearing on the ballot at the next applicable election.

14 (b) A ballot issue committee is prohibited from receiving
15 contributions or making expenditures to influence the nomination
16 or election of a candidate to office.

17 (c) A ballot issue committee shall return all surplus
18 funds to the contributors or donate funds to a community
19 service, educational, youth, recreational, charitable,
20 scientific, or literary organization within ninety days after
21 the election for which the issue appeared on the ballot.

22 Surplus funds that are not returned or donated within ninety



1 days after the election for which the issue appeared on the
2 ballot shall escheat to the Hawaii election campaign fund.

3 (d) Every ballot issue committee shall terminate its
4 registration with the commission by filing a termination report
5 to be approved as provided in section 11-0. The termination
6 report shall be filed within ninety days after the election for
7 which the issue appeared on the ballot.

8 **D. Reporting and Filing with the Commission**

9 **§11-0 Filing of reports, generally.** (a) Every report
10 required to be filed by a candidate or candidate committee shall
11 be certified by the candidate and treasurer.

12 (b) Every report required to be filed by a noncandidate
13 committee shall be certified by the chairperson and treasurer.

14 (c) All reports required to be filed under this part shall
15 be filed on the commission's electronic filing system.

16 (d) For purposes of this part, whenever a report is
17 required to be filed with the commission, "filed" means that a
18 report shall be filed with the commission's electronic filing
19 system by the date and time specified for the filing of the
20 report by:

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



- 1 (A) Office of governor;
- 2 (B) Office of lieutenant governor;
- 3 (C) Office of mayor;
- 4 (D) Office of prosecuting attorney;
- 5 (E) County council;
- 6 (F) Senate;
- 7 (G) House of representatives;
- 8 (H) Office of Hawaiian affairs; or
- 9 (I) Board of education; or

10 (2) A noncandidate committee required to be registered
11 with the commission pursuant to section 11-L.

12 (e) To be timely filed, a committee's reports shall be
13 filed with the commission's electronic filing system on or
14 before 11:59 p.m. Hawaiian standard time on the filing date
15 specified.

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

17 **§11-R Candidate committee reports.** (a) The candidate and
18 treasurer shall file preliminary, final, and supplemental
19 reports that shall disclose the following information:

- 20 (1) The candidate committee's name and address;
- 21 (2) The cash on hand at the beginning of the reporting
22 period and election period;



1 (3) The reporting period and election period aggregate
2 totals for each of the following categories:

- 3 (A) Contributions;
- 4 (B) Expenditures;
- 5 (C) Other receipts; and
- 6 (D) Loans;

7 (4) The cash on hand at the end of the reporting period;
8 and

9 (5) The surplus or deficit at the end of the reporting
10 period.

11 (b) Schedules filed with the reports shall include the
12 following additional information:

13 (1) The amount and date of deposit of each contribution
14 and the name and address of each contributor who makes
15 contributions aggregating more than \$100 in an
16 election period; provided that if all the information
17 is not on file, the contribution shall be returned to
18 the contributor within thirty days of deposit;

19 (2) The amount and date of deposit of each contribution
20 and the name, address, occupation, and employer of
21 each contributor who makes contributions aggregating
22 \$1,000 or more during an election period; provided



1 that if all the information is not on file, the
2 contribution shall be returned to the contributor
3 within thirty days of deposit;

4 (3) All expenditures, including the name and address of
5 each payee and the amount, date, and purpose of each
6 expenditure. Expenditures for consultants,
7 advertising agencies and similar firms, credit card
8 payments, salaries, and candidate reimbursements shall
9 be itemized to permit a reasonable person to determine
10 the ultimate intended recipient of the expenditure and
11 its purpose;

12 (4) The amount, date of deposit, and description of other
13 receipts and the name and address of the source of
14 each of the other receipts;

15 (5) Information about each loan received by the committee,
16 together with the names and addresses of the lender
17 and each person liable directly, and the amount of
18 each loan. A copy of the executed loan document shall
19 be received by the commission by mail or delivery on
20 or before the filing date for the report covering the
21 reporting period when the loan was received. The
22 document shall contain the terms of the loan,



1 including the interest and repayment schedule.

2 Failure to disclose the loan or to provide

3 documentation of the loan to the commission shall

4 cause the loan to be treated as a contribution,

5 subject to all relevant provisions of this part;

6 (6) A description of each durable asset, the date of
7 acquisition, value at the time of acquisition, and the
8 name and address of the vendor or contributor of the
9 asset; and

10 (7) The date of disposition of each durable asset, value
11 at the time of disposition, the method of disposition,
12 and the name and address of the person receiving the
13 asset.

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

17 **§11-S Time for candidate committee to file preliminary,**
18 **final, and supplemental reports.** (a) The candidate and
19 treasurer of the candidate committee of each candidate whose
20 name will appear on the ballot in the immediately succeeding
21 election shall file preliminary, final, and supplemental
22 reports.



- 1 (1) The filing dates for preliminary reports are:
- 2 (A) July 31 of the election year;
- 3 (B) Ten calendar days prior to a primary, each
- 4 special, or each nonpartisan election; and
- 5 (C) Ten calendar days prior to a general election;
- 6 provided that this preliminary report does not
- 7 need to be filed by a candidate who is
- 8 unsuccessful in a primary, special, or
- 9 nonpartisan election or a candidate who is
- 10 elected to office in the primary, initial
- 11 special, or initial nonpartisan election.

12 Each preliminary report shall be current through

13 June 30 for the report filed on July 31 and current

14 through the fifth calendar day before the filing

15 deadline of other preliminary reports.

- 16 (2) The filing date for the final primary report is twenty
- 17 calendar days after a primary, initial special, or
- 18 initial nonpartisan election. The report shall be
- 19 current through the day of the applicable election.
- 20 (3) The filing date for the final election period report
- 21 is thirty calendar days after a general, subsequent,
- 22 subsequent special, or subsequent nonpartisan

1 election. The report shall be current through the day
2 of the applicable election. The final election period
3 report shall be filed by a candidate who is
4 unsuccessful in a primary, initial special, or initial
5 nonpartisan election or a candidate who is elected to
6 office in the primary, initial special, or initial
7 nonpartisan election.

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

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

10 (B) July 31 after an election year.

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

14 (b) A candidate and treasurer of the candidate committee
15 of each candidate with a deficit or surplus whose name will not
16 appear on the ballot in the immediately succeeding election
17 shall file a supplemental report every six months on January 31
18 and July 31 until:

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

21 (a); or



1 (2) The committee's registration is terminated as provided
2 in section 11-0.

3 The report shall be current through December 31 for the
4 report filed on January 31 and current through June 30 for the
5 report filed on July 31.

6 (c) A candidate and treasurer of the candidate committee
7 of each candidate shall continue to file all required reports
8 until the committee's registration is terminated as provided in
9 section 11-0.

10 **§11-T Noncandidate committee reports.** (a) The authorized
11 person in the case of a party, or treasurer in the case of a
12 noncandidate committee that is not a party, shall file
13 preliminary, final, and supplemental reports that disclose the
14 following information:

- 15 (1) The noncandidate committee's name and address;
- 16 (2) The cash on hand at the beginning of the reporting
17 period and election period;
- 18 (3) The reporting period and election period aggregate
19 totals for each of the following categories:
- 20 (A) Contributions;
- 21 (B) Expenditures; and
- 22 (C) Other receipts;



1 (4) The cash on hand at the end of the reporting period;
2 and

3 (5) The surplus or deficit at the end of the reporting
4 period.

5 (b) Schedules filed with the reports shall include the
6 following additional information:

7 (1) The amount and date of deposit of each contribution
8 and the name, address, occupation, and employer of
9 each contributor making a contribution aggregating
10 more than \$100 during an election period, which was
11 not previously reported; provided that if all the
12 information is not on file, the contribution shall be
13 returned to the contributor within thirty days of
14 deposit;

15 (2) All expenditures, including the name and address of
16 each payee and the amount, date, and purpose of each
17 expenditure. Expenditures for consultants,
18 advertising agencies and similar firms, credit card
19 payments, salaries, and candidate reimbursements shall
20 be itemized to permit a reasonable person to determine
21 the ultimate intended recipient of the expenditure and
22 its purpose;



1 (3) The amount, date of deposit, and description of other
2 receipts and the name and address of the source of
3 each of the other receipts;

4 (4) A description of each durable asset, the date of
5 acquisition, value at the time of acquisition, and the
6 name and address of the vendor or contributor of the
7 asset; and

8 (5) The date of disposition of a durable asset, value at
9 the time of disposition, method of disposition, and
10 name and address of the person receiving the asset.

11 (c) No loan may be made or received by a noncandidate
12 committee.

13 (d) The authorized person in the case of a party, or
14 treasurer in the case of a noncandidate committee that is not a
15 party, shall file a late contribution report as provided in
16 section 11-W if the committee receives late contributions from
17 any person aggregating more than \$500 or makes late
18 contributions aggregating more than \$500.

19 **§11-U Time for noncandidate committee to file preliminary,**
20 **final, and supplemental reports.** (a) The filing dates for
21 preliminary reports are:



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

3 (2) Ten calendar days prior to a general election.

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

6 (b) The filing date for the final primary report is twenty
7 calendar days after the primary, initial special, or initial
8 nonpartisan election. The report shall be current through the
9 day of the applicable election.

10 (c) The filing date for the final election period report
11 is thirty calendar days after a general, subsequent special, or
12 subsequent nonpartisan election. The report shall be current
13 through the day of the applicable election.

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

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

16 (2) July 31 after an election year.

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

20 (e) The authorized person in the case of a party, or
21 treasurer in the case of any other noncandidate committee, shall



1 continue to file all reports until the committee's registration
2 is terminated as provided in section 11-0.

3 **§11-V Reporting expenditures.** For purposes of this part,
4 an expenditure is deemed to be made or incurred when the
5 services are rendered or the product is delivered. Services
6 rendered or products delivered for use during a reporting period
7 are deemed delivered or rendered during the period or periods of
8 use; provided that these expenditures shall be reasonably
9 allocated between periods in accordance with the time the
10 services or products are actually used.

11 **§11-W Late contributions; report.** (a) The candidate,
12 authorized person in the case of a noncandidate committee that
13 is a party, or treasurer in the case of a candidate committee or
14 other noncandidate committee, that, within the period of
15 fourteen calendar days through four calendar days prior to any
16 election, makes contributions aggregating more than \$500, or
17 receives contributions from any person aggregating more than
18 \$500, shall file a late contribution report by means of the
19 commission's electronic filing system on or before the third
20 calendar day prior to the election.

21 (b) The late contribution report shall include the
22 following information:



- 1 (1) Name, address, occupation, and employer of the
2 contributor;
- 3 (2) Name of the candidate, candidate committee, or
4 noncandidate committee making or receiving the
5 contribution;
- 6 (3) The amount of the contribution;
- 7 (4) The contributor's aggregate contributions to the
8 candidate, candidate committee, or noncandidate
9 committee; and
- 10 (5) The purpose, if any, to which the contribution will be
11 applied.

12 (c) A late contribution report filed pursuant to this
13 section shall be in addition to any other report required to be
14 filed by this part.

15 **§11-X Final election period report for candidate committee**
16 **or noncandidate committee receiving and expending \$1,000 or less**
17 **during the election period.** (a) Any provision of law to the
18 contrary notwithstanding, a candidate committee or noncandidate
19 committee whose aggregate contributions and aggregate
20 expenditures for the election period total \$1,000 or less, shall
21 electronically file only a final election period report, and
22 need not file a preliminary and final primary report, a



1 preliminary and final general report, or a special election
2 report.

3 (b) Until the candidate committee's or noncandidate
4 committee's registration is terminated as provided in section
5 11-0, supplemental reports and other reports required by this
6 part shall be filed.

7 **§11-Y Failure to file report; filing a substantially**
8 **defective or deficient report.** (a) True and accurate reports
9 shall be filed with the commission on or before the due dates
10 specified in this part. The commission may assess a fine
11 against a candidate committee or noncandidate committee that is
12 required to file a report under this part if the report is not
13 filed by the due date or if the report is substantially
14 defective or deficient, as determined by the commission.

15 (b) The fine for not filing a report by the due date, if
16 assessed, shall not exceed \$50 per day for the first seven days,
17 beginning with the day after the due date of the report, and
18 shall not exceed \$200 per day thereafter; provided that:

19 (1) In aggregate, the fine shall not exceed twenty-five
20 per cent of the total amount of contributions or
21 expenditures, whichever is greater, for the period
22 covered by the report; and



1 (2) The minimum fine for a report filed more than four
2 days after the due date, if assessed, shall be \$200.

3 (c) Subsection (b) notwithstanding, if a candidate
4 committee does not file the second preliminary primary report or
5 the preliminary general report, or if a noncandidate committee
6 does not file the preliminary primary report or the preliminary
7 general report by the due date, the fine, if assessed, shall not
8 exceed \$300 per day; provided that:

9 (1) In aggregate, the fine shall not exceed twenty-five
10 per cent of the total amount of contributions or
11 expenditures, whichever is greater, for the period
12 covered by the report; and

13 (2) The minimum fine, if assessed, shall be \$300.

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

17 (1) The report is substantially defective or deficient;

18 and

19 (2) A fine may be assessed.

20 (e) If the corrected report is not filed with the
21 commission's electronic filing system on or before the
22 fourteenth day after the notice of defect or deficiency has been



1 mailed, the fine, if assessed, for a substantially defective or
2 deficient report shall not exceed \$50 per day for the first
3 seven days, beginning with the fifteenth day after the notice
4 was sent, and shall not exceed \$200 per day thereafter; provided
5 that:

6 (1) In aggregate, the fine shall not exceed twenty-five
7 per cent of the total amount of contributions or
8 expenditures, whichever is greater, for the period
9 covered by the report; and

10 (2) The minimum fine for not filing a corrected report
11 more than eighteen days after the notice, if assessed,
12 shall be \$200.

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

15 (1) File a report; or

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

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

20 **§11-Z Electioneering communications; statement of**

21 **information.** (a) Each person who makes a disbursement for
22 electioneering communications in an aggregate amount of more



1 than \$2,000 during any calendar year shall file with the
2 commission a statement of information within twenty-four hours
3 of each disclosure date provided in this section.

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

- 6 (1) The name of the person making the disbursement, name
7 of any person or entity sharing or exercising
8 discretion or control over such person, and the
9 custodian of the books and accounts of the person
10 making the disbursement;
- 11 (2) The state of incorporation and principal place of
12 business or, for an individual, the address of the
13 person making the disbursement;
- 14 (3) The amount of each disbursement during the period
15 covered by the statement and the identification of the
16 person to whom the disbursement was made;
- 17 (4) The elections to which the electioneering
18 communications pertain and the names, if known, of the
19 candidates identified or to be identified;
- 20 (5) If the disbursements were made by a candidate
21 committee or noncandidate committee, the names and
22 addresses of all persons who contributed to the



1 candidate committee or noncandidate committee for the
2 purpose of publishing or broadcasting the
3 electioneering communications;

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

10 (7) Whether or not any electioneering communication is
11 made in coordination, cooperation, or concert with or
12 at the request or suggestion of any candidate,
13 candidate committee, or noncandidate committee, or
14 agent of any candidate if any, and if so, the
15 identification of the candidate, a candidate committee
16 or a noncandidate committee, or agent involved.

17 (c) For purposes of this section:

18 "Disclosure date" means, for every calendar year, the first
19 date by which a person has made disbursements during that same
20 year of more than \$2,000 in the aggregate for electioneering
21 communications, and the date of any subsequent disbursements by
22 that person for electioneering communications.



1 "Electioneering communication" means any advertisement that
2 is broadcast from a cable, satellite, television, or radio
3 broadcast station; published in any periodical or newspaper; or
4 sent by mail at a bulk rate, and that:

- 5 (1) Refers to a clearly identifiable candidate;
- 6 (2) Is made, or scheduled to be made, either within thirty
7 days prior to a primary or initial special election or
8 within sixty days prior to a general or special
9 election; and
- 10 (3) Is not susceptible to any reasonable interpretation
11 other than as an appeal to vote for or against a
12 specific candidate.

13 "Electioneering communication" shall not include
14 communications:

- 15 (1) In a news story or editorial disseminated by any
16 broadcast station or publisher of periodicals or
17 newspapers, unless the facilities are owned or
18 controlled by a candidate, candidate committee, or
19 noncandidate committee;
- 20 (2) That constitute expenditures by the disbursing
21 organization;
- 22 (3) In house bulletins; or



1 (4) That constitute a candidate debate or forum, or solely
2 promote a debate or forum and are made by or on behalf
3 of the person sponsoring the debate or forum.

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

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

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

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

20 **§11-BB Reporting deadline.** When any reporting deadline
21 falls on a Saturday, Sunday, or holiday designated in section 8-



1 1, the reporting deadline shall be the next succeeding day that
2 is not a Saturday, Sunday, or holiday.

3 **§11-CC Sale or use of information.** No information in the
4 reports or copies of the reports filed with the commission shall
5 be sold or used by any person for the purpose of soliciting
6 contributions or for any commercial purpose.

7 **E. Contributions; Prohibitions; Limits**

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

19 (b) A candidate, candidate committee, or noncandidate
20 committee, shall not accept a contribution of more than \$100 in
21 cash from a single person without issuing a receipt to the
22 contributor and keeping a record of the contribution.



1 (c) Each candidate committee or noncandidate committee
2 shall disclose the original source of all earmarked funds, the
3 ultimate recipient of the earmarked funds, and the fact that the
4 funds are earmarked.

5 **§11-EE False name contributions prohibited.** (a) No
6 person shall make a contribution to any candidate, candidate
7 committee, or noncandidate committee in any name other than that
8 of the person who owns the money, property, or service.

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

12 **§11-FF Anonymous contributions prohibited.** (a) Except as
13 provided in subsection (d), no person shall make an anonymous
14 contribution to any candidate, candidate committee, or
15 noncandidate committee.

16 (b) A candidate, candidate committee, or noncandidate
17 committee shall not knowingly receive, accept, or retain an
18 anonymous contribution, or report such contribution as an
19 anonymous contribution, except as provided in this section.

20 (c) An anonymous contribution shall not be used or
21 expended by the candidate, candidate committee, or noncandidate
22 committee, but shall be returned to the contributor. If the



1 contributor cannot be identified, the contribution shall escheat
2 to the Hawaii election campaign fund.

3 (d) This section shall not apply to amounts that aggregate
4 to less than \$500 that are received from ten or more persons at
5 the same political function. The receipt of these contributions
6 shall be disclosed in a report filed pursuant to sections 11-R
7 and 11-T.

8 **§11-GG Fundraising on state or county property prohibited.**

9 (a) Except as provided in subsection (b), no person shall
10 solicit a contribution in a government facility that is used for
11 the discharge of official duties by an officer or employee of
12 the State or county.

13 (b) The prohibition in subsection (a) shall not apply to
14 any government facility that permits use by nongovernmental
15 organizations for a fee or with reservations; provided that the
16 government facility's use rules do not prohibit political
17 activities on the premises. Government facilities that permit
18 use for political activities shall be available to a candidate,
19 candidate committee, or noncandidate committee for fundraising
20 activities pursuant to the same terms and conditions that would
21 otherwise apply to use by nongovernmental organizations.



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

3 **§11-HH Contributions by state and county contractors**

4 **prohibited.** (a) It shall be unlawful for any person who enters
5 into any contract with the State, any of the counties, or any
6 department or agency thereof either for the rendition of
7 personal services, the buying of property, or furnishing of any
8 material, supplies, or equipment to the State, any of the
9 counties, any department or agency thereof, or for selling any
10 land or building to the State, any of the counties, or any
11 department or agency thereof, if payment for the performance of
12 the contract or payment for material, supplies, equipment, land,
13 property, or building is to be made in whole or in part from
14 funds appropriated by the legislative body, at any time between
15 the execution of the contract through the completion of the
16 contract, to:

17 (1) Directly or indirectly make any contribution, or
18 promise expressly or impliedly to make any
19 contribution to any candidate committee or
20 noncandidate committee, or to any candidate or to any
21 person for any political purpose or use; or



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

3 (b) Except as provided in subsection (a), this section
4 does not prohibit or make unlawful the establishment or
5 administration of, or the solicitation of contributions to, any
6 noncandidate committee by any person other than the state or
7 county contractor for the purpose of influencing the nomination
8 for election, or the election of any person to office.

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

16 **§11-II Contributions by foreign national or foreign**
17 **corporation prohibited.** (a) Except as provided in subsection
18 (b), no contributions or expenditures shall be made to or on
19 behalf of a candidate, candidate committee, or noncandidate
20 committee, by a foreign national or foreign corporation,
21 including a domestic subsidiary of a foreign corporation, a
22 domestic corporation that is owned by a foreign national, or a



1 local subsidiary where administrative control is retained by the
2 foreign corporation, and in the same manner prohibited under 2
3 United States Code section 441e and 11 Code of Federal
4 Regulations section 110.20, as amended.

5 (b) A foreign-owned domestic corporation may make
6 contributions if:

- 7 (1) Foreign national individuals do not participate in
8 election-related activities, including decisions
9 concerning contributions or the administration of a
10 candidate committee or noncandidate committee; or
11 (2) The contributions are domestically-derived.

12 **§11-JJ Contributions to candidate committees; limits.** (a)

13 No person shall make contributions to:

- 14 (1) A candidate seeking nomination or election to a two-
15 year office or to a candidate committee in an
16 aggregate amount greater than \$2,000 during an
17 election period;
18 (2) A candidate seeking nomination or election to a four-
19 year nonstatewide office or to a candidate committee
20 in an aggregate amount greater than \$4,000 during an
21 election period; or



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

5 (b) For purposes of this section, the length of term of an
6 office shall be the usual length of term of the office as
7 unaffected by reapportionment, a special election to fill a
8 vacancy, or any other factor causing the term of the office the
9 candidate is seeking to be less than the usual length of term of
10 that office.

11 **§11-KK Contributions to noncandidate committees; limits.**

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

15 **§11-LL Family contributions.** (a) A contribution by a
16 dependent minor shall be reported in the name of the minor but
17 included in the aggregate contributions of the minor's parent or
18 guardian.

19 (b) A contribution by the candidate's immediate family
20 shall be exempt from section 11-HH, but shall be limited in the
21 aggregate to \$50,000 in any election period; provided that the
22 aggregate amount of loans and contributions received from the



1 candidate's immediate family does not exceed \$50,000 during an
2 election period.

3 **§11-MM Contributions to a party.** (a) No person shall
4 make contributions to a party in an aggregate amount greater
5 than \$25,000 in any two-year election period, except as provided
6 in subsection (b).

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

11 (c) If a person makes a contribution to a party that is
12 earmarked for a candidate or candidates, the contribution shall
13 be deemed to be a contribution from both the original
14 contributor and the party distributing such funds to a candidate
15 or candidates. The earmarked funds shall be promptly
16 distributed by the party to the candidate.

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

20 **§11-NN Aggregation of contributions and expenditures.** (a)
21 All contributions and expenditures of a person whose
22 contributions or expenditures are financed, maintained, or



1 controlled by any corporation, labor organization, association,
2 party, or any other person, including any parent, subsidiary,
3 branch, division, department, or local unit of the corporation,
4 labor organization, association, party, political committees
5 established and maintained by a national political party, or by
6 any group of those persons shall be considered to be made by a
7 single person.

8 (b) A contribution by a partnership shall not exceed the
9 limitations in this section and shall be attributed to the
10 partnership and to each partner in direct proportion to the
11 partner's share of the partnership profits, according to
12 instructions that shall be provided by the partnership to the
13 party, candidate, or committee receiving the contribution.

14 (c) A contribution by a limited liability company shall be
15 treated as follows:

16 (1) A contribution by a limited liability company that is
17 treated as a partnership by the Internal Revenue
18 Service shall be considered a contribution from a
19 partnership;

20 (2) A contribution by a limited liability company that is
21 treated as a corporation by the Internal Revenue



1 Service shall be considered a contribution from a
2 corporation;

3 (3) A contribution by a limited liability company with a
4 single individual member that is not treated as a
5 corporation by the Internal Revenue Service shall be
6 attributed only to that single individual member; and

7 (4) A limited liability company that makes a contribution
8 shall, at the time the limited liability company makes
9 the contribution, provide information to the party,
10 committee, or candidate receiving the contribution
11 specifying how the contribution is to be attributed.

12 (d) A person's contribution to a party that is earmarked
13 for a candidate or candidates shall be included in the aggregate
14 contributions of both the person and the party. The earmarked
15 funds shall be promptly distributed by the party to the
16 candidate.

17 (e) A contribution by a dependent minor shall be reported
18 in the name of the minor but included in the aggregate
19 contributions of the minor's parent or guardian.

20 **§11-00 Contributions limited from nonresident persons.**

21 (a) Contributions from all persons who are not residents of the
22 state at the time the contributions are made shall not exceed



1 thirty per cent of the total contributions received by a
2 candidate or candidate committee for each election period.

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

5 **§11-PP Other contributions and expenditures.** (a)

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

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

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

21 (b) "Coordinated activity" means:



1 (1) The payment by any person in cooperation,
2 consultation, or concert with, at the request of, or
3 pursuant to, any general or particular understanding
4 with a candidate, candidate committee, the party of a
5 candidate, or an agent of a candidate, candidate
6 committee, or the party of a candidate;

7 (2) The payment by any person for the production,
8 dissemination, distribution, or republication of any
9 written, graphic, or other form of campaign material,
10 in whole or in part, prepared by a candidate,
11 candidate committee, or noncandidate committee, or an
12 agent of a candidate, candidate committee, or
13 noncandidate committee; or

14 (3) Any payment by any person or contract for any
15 electioneering communication, as defined in section
16 11-Z, where the payment is coordinated with a
17 candidate, candidate committee, the party of the
18 candidate, or an agent of a candidate, candidate
19 committee, or the party of the candidate.

20 (c) No expenditure for a candidate who files an affidavit
21 with the commission agreeing to limit aggregate expenditures by
22 the candidate, including coordinated activity by any person,



1 shall be made or incurred by a candidate committee or
2 noncandidate committee without authorization of the candidate or
3 the candidate's authorized representative. Every expenditure so
4 authorized and made or incurred shall be attributed to the
5 candidate with whom the candidate committee or noncandidate
6 committee is directly associated for the purpose of imposing the
7 expenditure limitations set forth in section 11-000.

8 **§11-QQ Excess contribution; return; escheat.** (a) Any
9 candidate, candidate committee, or noncandidate committee that
10 receives in the aggregate more than the applicable contribution
11 limit in section 11-JJ, 11-KK, 11-LL, or 11-MM shall return any
12 excess contribution to the contributor within thirty days of
13 receipt of the excess contribution. Any excess contribution not
14 returned to the contributor within thirty days shall escheat to
15 the Hawaii election campaign fund.

16 (b) A candidate, candidate committee, or noncandidate
17 committee that complies with this section prior to the
18 initiation of administrative action shall not be subject to any
19 fine under section 11-JJJ.

20 **F. Loans**



1 **§11-RR Loan to candidate committee.** (a) A candidate or
2 candidate committee may receive a loan from any or all of the
3 following:

4 (1) The candidate's own funds;

5 (2) A financial institution regulated by the State or a
6 federally chartered depository institution and made in
7 accordance with applicable law in the ordinary course
8 of business;

9 (3) The candidate's immediate family in an aggregate
10 amount not to exceed \$50,000 during an election
11 period; provided that the aggregate amount of loans
12 and contributions received from the immediate family
13 shall not exceed \$50,000 during an election period;
14 and

15 (4) Persons other than the candidate, a financial
16 institution described in paragraph (2), or the
17 candidate's immediate family, in an aggregate amount
18 not to exceed \$10,000 during an election period;
19 provided that:

20 (A) If the \$10,000 limit for loans from persons other
21 than the immediate family is reached, the
22 candidate and candidate committee shall be



1 prohibited from receiving or accepting any other
2 loans until the \$10,000 is repaid in full; and

3 (B) If a loan from persons other than the candidate's
4 immediate family is not repaid within one year of
5 the date that the loan is made, the candidate and
6 candidate committee shall be prohibited from
7 accepting any other loans. All campaign funds,
8 including contributions subsequently received,
9 shall be used to repay the outstanding loan in
10 full.

11 (b) For purposes of this section, a "loan" does not
12 include expenditures made on behalf of a candidate committee by
13 a candidate, volunteer, or employee if:

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

17 (2) A dated receipt and a written description of the name
18 and address of each payee and the amount, date, and
19 purpose of each expenditure is provided to the
20 candidate committee before the candidate committee
21 reimburses the candidate, volunteer, or employee; and



1 (3) The candidate committee reimburses the candidate,
2 volunteer, or employee within forty-five days of the
3 expenditures being made.

4 **§11-SS Reporting loan; written loan agreement.** (a) Every
5 loan shall be reported as provided in section 11-R.

6 (b) Every loan in excess of \$100 shall be documented as
7 provided in section 11-R.

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

11 **§11-TT Noncandidate committee loan prohibited.** A
12 noncandidate committee shall not receive or make a loan.

13 **G. Expenditures**

14 **§11-UU Campaign funds only used for certain purposes.** (a)
15 Campaign funds may be used by a candidate, treasurer, or
16 candidate committee:

17 (1) For any purpose directly related:

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

20 (B) In the case of a candidate committee or treasurer
21 of a candidate committee, to the campaign of the



1 candidate, question, or issue with which they are
2 directly associated;

3 (2) To purchase or lease consumer goods, vehicles,
4 equipment, and services that provide a mixed benefit
5 to the candidate. The candidate, however, shall
6 reimburse the candidate's candidate committee for the
7 candidate's personal use unless the personal use is de
8 minimis;

9 (3) To make donations to any community service,
10 educational, youth, recreational, charitable,
11 scientific, or literary organization; provided that in
12 any election period, the total amount of all donations
13 shall be no more than twice the maximum amount that
14 one person may contribute to that candidate pursuant
15 to section 11-JJ; provided further that no
16 contributions shall be made from the date the
17 candidate files nomination papers to the date of the
18 general election;

19 (4) To make donations to any public school or public
20 library; provided that in any election period, the
21 total amount of all contributions shall be no more
22 than twice the maximum amount that one person may



1 contribute to that candidate pursuant to section
2 11-JJ; provided further that any donation under this
3 paragraph shall not be aggregated with or imputed
4 toward any limitation on donations pursuant to
5 paragraph (3);

6 (5) To purchase not more than two tickets for each event
7 held by another candidate or committee, whether or not
8 the event constitutes a fundraiser as defined in
9 section 11-AA;

10 (6) To make contributions to the candidate's party so long
11 as the contributions are not earmarked for another
12 candidate; or

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

16 (b) Campaign funds may be used for the candidate's next
17 subsequent election upon registration for the election pursuant
18 to section 11-J.

19 **§11-VV Prohibited uses of campaign funds.** Campaign funds
20 shall not be used:

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



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

4 (3) For personal expenses.

5 **§11-WW Exceptions.** Notwithstanding sections 11-UU and 11-
6 VV:

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

8 (2) A candidate for the office of governor or lieutenant
9 governor may support a co-candidate in the general
10 election.

11 **§11-XX Disposition of campaign funds; termination of**

12 **registration.** (a) The candidate committee and candidate who
13 receives contributions for an election but fails to file
14 nomination papers for that election shall return residual funds
15 to the contributors no later than ninety days after the date on
16 which nominations for that election shall be filed. Funds not
17 returned to contributors shall escheat to the Hawaii election
18 campaign fund.

19 (b) The candidate committee and candidate who withdraws or
20 ceases to be a candidate for the election because of death,
21 disqualification, or other reasons shall return residual funds
22 to the contributors no later than ninety days after the



1 candidate ceases to be a candidate. Funds not returned to
2 contributors shall escheat to the Hawaii election campaign fund.

3 (c) A candidate who is elected to office, including a
4 candidate subject to term limits and a candidate who resigned
5 before the end of the term of office and the candidate committee
6 of such a candidate, may use campaign funds as provided in
7 section 11-UU or return funds to contributors until four years
8 from the date of the election for which the campaign funds were
9 received. Funds that are not used or returned to contributors
10 shall escheat to the Hawaii election campaign fund.

11 (d) A candidate who loses an election and the candidate
12 committee of such a candidate may use campaign funds as provided
13 in section 11-UU or return funds to contributors until one year
14 from the date of the election for which the campaign funds were
15 received. Funds that are not used or returned to contributors
16 shall escheat to the Hawaii election campaign fund.

17 (e) A candidate committee that disposes of campaign funds
18 pursuant to this section shall terminate its registration with
19 the commission as provided in section 11-O.

20 (f) Notwithstanding any of the foregoing, campaign funds
21 may be used for the candidate's next subsequent election as



1 provided in section 11-UU upon registration for the election
2 pursuant to section 11-J.

3 (g) The commission shall adopt rules pursuant to chapter
4 91 to carry out the purposes of this section.

5 H. Advertisements

6 **§11-YY Advertisements.** (a) Any advertisement shall
7 contain:

8 (1) The name and address of the candidate, candidate
9 committee, noncandidate committee, or other person
10 paying for the advertisement; and

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

12 (A) The advertisement is published, broadcast,
13 televised, or circulated with the approval and
14 authority of the candidate; provided that an
15 advertisement paid for by a candidate, candidate
16 committee, or ballot issue committee does not
17 need to include the notice; or

18 (B) The advertisement is published, broadcast,
19 televised, or circulated without the approval and
20 authority of the candidate.

21 (b) The fine for violation of this section, if assessed by
22 the commission, shall not exceed \$25 for each advertisement that



1 lacks the information required by this section, and shall not
2 exceed an aggregate amount of \$5,000.

3 **§11-ZZ House bulletins.** The costs of preparing, printing,
4 and circulating house bulletins and the writings, drawings, and
5 photographs contained therein, except for paid political
6 advertisements, shall be exempt from the provisions of this
7 part.

8 **I. Enforcement**

9 **§11-AAA Subpoena powers.** (a) The commission may subpoena
10 witnesses, examine them under oath, and require the production
11 of books, papers, documents, or objects to the commission office
12 or at any place in the State whether or not the subpoena is in
13 connection with any hearing; provided that the person or
14 documents subpoenaed shall be relevant to a matter under study
15 or investigation by the commission.

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

19 (c) The subpoena power shall be exercised by the
20 chairperson of the commission, or the chairperson's designee.

21 (d) Upon application of the commission, obedience to the
22 subpoena shall be enforced by the circuit court in the county in



1 which the person subpoenaed resides or is found, in the same
2 manner as a subpoena issued by a circuit court.

3 **§11-BBB Filing of complaint.** (a) A person alleging
4 violations of this part shall file a complaint with the
5 commission.

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

8 (c) A complaint by a person other than the executive
9 director shall be in writing, signed by the person filing the
10 complaint, and notarized.

11 **§11-CCC Notice of complaint; opportunity to explain or**
12 **respond to complaint.** (a) The commission shall give notice of
13 receipt of the complaint and a copy of the complaint to the
14 respondent:

15 (b) The respondent may explain or otherwise respond in
16 writing to the complaint and explain or otherwise respond to the
17 complaint at a meeting promptly noticed by the commission and
18 conducted under chapter 92.

19 **§11-DDD Initial determination by the commission.** The
20 commission shall promptly determine, without regard to chapter
21 91, to:

22 (1) Summarily dismiss the complaint;



- 1 (2) Investigate further;
- 2 (3) Make a preliminary determination; or
- 3 (4) Refer the complaint to an appropriate prosecuting
- 4 attorney for prosecution under section 11-KKK.

5 **§11-EEE Preliminary determination regarding probable**

6 **cause.** (a) Upon hearing the response, if the respondent
 7 explains or otherwise responds to the complaint, and upon
 8 completion of any investigation, the commission may make a
 9 prompt preliminary determination as to whether probable cause
 10 exists that a violation of this part has been committed. The
 11 preliminary determination with findings of fact and conclusions
 12 of law shall be served upon the respondent by certified mail.

13 (b) The respondent shall be afforded an opportunity to
 14 contest the commission's preliminary determination of probable
 15 cause by making a request for a contested case hearing under
 16 chapter 91 within twenty days of receipt of the preliminary
 17 determination. Failure to request a contested case hearing
 18 shall render the commission's preliminary determination final.

19 **§11-FFF Waiver of further proceedings.** The commission may
 20 waive further proceedings due to action the respondent takes to
 21 remedy or correct the alleged violation, including the payment
 22 of any administrative fine. The commission shall make the



1 remedial or corrective action taken by the respondent, the
2 commission's decision in light of the action to waive further
3 proceedings, and the commission's justification for its decision
4 a part of the public record.

5 **§11-GGG Contested case hearing.** (a) A contested case
6 hearing shall be conducted pursuant to chapter 91 and any rules
7 adopted by the commission, except as provided in this section.

8 (b) If a hearing is held before the commission, the
9 commission shall not be bound by strict rules of evidence when
10 conducting a hearing to determine whether a violation of this
11 part has occurred, and the degree or quantum of proof required
12 shall be a preponderance of the evidence.

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

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

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

21 (f) Any person who appears before the commission shall
22 have all of the rights, privileges, and responsibilities of a



1 witness appearing before the courts of this State. All
2 witnesses summoned before the commission or hearings officer
3 shall receive reimbursements as paid in like circumstances in
4 the courts of this State. Any person whose name is mentioned
5 during a proceeding before the commission and who may be
6 adversely affected thereby may appear or file a written
7 statement for incorporation into the record of the proceeding.

8 (g) If a hearing is held before a hearings officer, the
9 hearings officer shall render a recommended decision for the
10 commission's consideration. Any party adversely affected by the
11 decision may file written exceptions with the commission within
12 fifteen days after receipt of a copy of the decision by
13 certified mail.

14 (h) The commission, as expeditiously as possible after the
15 close of the commission's hearing, shall issue its final
16 determination of violation together with separate findings of
17 fact and conclusions of law regarding whether a violation of
18 this part has been committed.

19 **§11-HHH Dismissal.** The complaint shall be dismissed if
20 the commission makes a final determination that there is no
21 violation of this part.



1 **§11-III Final determination of violation; order.** If the
2 commission makes a final determination of a violation of this
3 part, its written decision with findings of fact and conclusions
4 of law may order any of the following:

- 5 (1) The return of any contribution;
- 6 (2) The reimbursement of any unauthorized expenditure;
- 7 (3) The payment of any administrative fine to the general
8 fund of the State;
- 9 (4) The respondent to cease and desist violations of this
10 part; or
- 11 (5) Any report, statement, or other information to be
12 filed that may be required by this part.

13 **§11-JJJ Administrative fines; relief.** (a) The commission
14 may make a decision or issue an order affecting any person
15 violating any provision of this part or section 281-22 that may
16 provide for the assessment of an administrative fine as follows:

- 17 (1) If an individual, an amount not to exceed \$1,000 for
18 each occurrence or an amount equivalent to three times
19 the amount of an unlawful contribution or expenditure;
20 or



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

4 provided that whenever a corporation, organization, association,
5 or labor union violates this part, the violation may be deemed
6 to be also that of the individual directors, officers, or agents
7 of the corporation, organization, association, or labor union,
8 who have knowingly authorized, ordered, or done any of the acts
9 constituting the violation.

10 (b) Any order for the assessment of an administrative fine
11 shall not be issued against a person without providing the
12 person written notice and an opportunity to be heard at a
13 hearing conducted under chapter 91. A person may waive these
14 rights by written stipulation or consent.

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

18 (d) If the person to whom the commission's order is
19 directed does not comply with the order, the first circuit
20 court, upon application of the commission, shall issue an order
21 requiring the person to comply with the commission's order.



1 Failure to obey such a court order shall be punished as
2 contempt.

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

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

7 (g) The provisions of this section shall not prohibit
8 prosecution under any appropriate provision of the Hawaii Penal
9 Code or section 11-LLL.

10 (h) This section shall not apply to any person who, prior
11 to the commencement of proceedings under this section, has paid
12 or agreed to pay the fines prescribed by sections 11-Y and
13 11-YY(b).

14 **§11-KKK Criminal referral.** In lieu of an administrative
15 determination that a violation of this part has been committed,
16 the commission may refer the complaint to the attorney general
17 or county prosecutor at any time it believes the respondent may
18 have recklessly, knowingly, or intentionally committed a
19 violation.

20 **§11-LLL Criminal prosecution.** (a) Any person who
21 recklessly, knowingly, or intentionally violates any provision
22 of this part shall be guilty of a misdemeanor.



1 (b) Any person who knowingly or intentionally falsifies
2 any report required by this part with the intent to circumvent
3 the law or deceive the commission or who violates section 11-EE
4 or 11-FF shall be guilty of a class C felony. A person charged
5 with a class C felony shall not be eligible for a deferred
6 acceptance of guilty plea or nolo contendere plea under chapter
7 853.

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

11 (d) For purposes of prosecution for violation of this
12 part, the offices of the attorney general and the prosecuting
13 attorney of the respective counties shall be deemed to have
14 concurrent jurisdiction to be exercised as follows:

15 (1) Prosecution shall commence with a written request from
16 the commission or upon the issuance of an order of the
17 court; provided that prosecution may commence prior to
18 any proceeding initiated by the commission or final
19 determination;

20 (2) In the case of statewide offices, parties, or issues,
21 the attorney general or the prosecuting attorney for



1 the city and county of Honolulu shall prosecute any
2 violation; and

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

6 In the commission's choice of prosecuting agency, it shall
7 be guided by whether any conflicting interest exists between the
8 agency and its appointive authority.

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

11 (f) Prosecution for violations of this part shall not
12 commence after five years have elapsed from the date of the
13 violation or date of filing of the report covering the period in
14 which the violation occurred, whichever is later.

15 (g) This section shall not apply to any person who, prior
16 to the commencement of proceedings under this section, has paid
17 or agreed to pay the fines prescribed by sections 11-Y and
18 11-YY(b).

19 **J. Partial Public Financing**

20 **§11-MMM Hawaii election campaign fund; creation.** (a) The
21 Hawaii election campaign fund is created as a trust fund within
22 the state treasury.



1 (b) The fund shall consist of:

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

5 (2) Any general fund appropriations; and

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

7 (c) Moneys in the fund shall be paid to candidates by the
8 comptroller as prescribed in section 11-WWW and may be used for
9 the commission's operating expenses, including staff salaries
10 and fringe benefits.

11 **§11-NNN Depletion of fund.** (a) The commission shall be
12 under no obligation to provide moneys to candidates if, in the
13 partial public funding program or comprehensive public funding
14 for elections to the county of Hawaii council, moneys in the
15 Hawaii election campaign fund are near depletion.

16 (b) For the purpose of the partial funding program, if the
17 Hawaii election campaign fund is close to depletion as
18 determined by the commission, the commission shall determine the
19 amounts available to eligible candidates based on their order of
20 eligibility in qualifying for partial public funds, as
21 determined by the date of filing of an application for public



1 funds with the commission pursuant to section 11-TTT; provided
2 that the application has been accepted by the commission.

3 (c) For the purpose of the comprehensive public funding
4 for elections to the county councils, if the Hawaii elections
5 campaign fund is close to depletion, the commission shall
6 determine whether the program shall be operative in accordance
7 with this part.

8 **§11-000 Voluntary expenditure limits; filing affidavit.**

9 (a) Any candidate may voluntarily agree to limit the
10 candidate's expenditures and those of the candidate's candidate
11 committee or committees and the candidate's party on the
12 candidate's behalf by filing an affidavit with the campaign
13 spending commission.

14 (b) The affidavit shall state that the candidate knows the
15 voluntary campaign expenditure limitations as set out in this
16 part and that the candidate is voluntarily agreeing to limit the
17 candidate's expenditures and those made on the candidate's
18 behalf by the amount set by law. The affidavit shall be
19 subscribed to by the candidate and notarized.

20 (c) The affidavit shall remain effective until the
21 termination of the candidate committee or the opening of filing
22 of nomination papers for the next succeeding election, whichever



1 occurs first. An affidavit filed under this section may not be
2 rescinded.

3 (d) From January 1 of the year of any primary, special, or
4 general election, the aggregate expenditures for each election
5 by a candidate who voluntarily agrees to limit campaign
6 expenditures, inclusive of all expenditures made or authorized
7 by the candidate alone, all treasurers, the candidate committee,
8 and noncandidate committees on the candidate's behalf, shall not
9 exceed the following amounts expressed, respectively multiplied
10 by the number of voters in the last preceding general election
11 registered to vote in each respective voting district:

- 12 (1) For the office of governor - \$2.50;
13 (2) For the office of lieutenant governor - \$1.40;
14 (3) For the office of mayor - \$2.00;
15 (4) For the offices of state senator, state
16 representative, and county council member - \$1.40; and
17 (5) For the board of education and all other offices - 20
18 cents.

19 **§11-PPP Tax deduction for qualifying contributions.** (a)
20 An individual resident of Hawaii may claim a state income tax
21 deduction pursuant to section 235-7(g)(2), for contributions to
22 a candidate who files an affidavit pursuant to section 11-000



1 and does not exceed the expenditure limit. Cancelled checks or
2 copies of the same shall be considered adequate receipt forms to
3 attach to the tax form to claim the credit.

4 (b) The commission shall forward a certified copy of the
5 affidavit to the director of taxation.

6 (c) If a candidate has not filed the affidavit pursuant to
7 section 11-000, the candidate shall inform all contributors in
8 writing immediately upon receipt of the contribution that they
9 are not entitled to a tax deduction for their contributions to
10 the candidate. The director of taxation shall not allow any
11 contributor to take a deduction, pursuant to section
12 235-7(g)(2), for any contribution to a candidate for a statewide
13 or county office who has not filed the affidavit pursuant to
14 section 11-000.

15 **§11-000 Maximum amount of public funds available to**
16 **candidate.** (a) The maximum amount of public funds available in
17 each election to a candidate for the office of governor,
18 lieutenant governor, or mayor shall not exceed ten per cent of
19 the expenditure limit established in section 11-000(d) for each
20 election.

21 (b) The maximum amount of public funds available in each
22 election to a candidate for the office of state senator, state



1 representative, county council member, and prosecuting attorney
2 shall not exceed fifteen per cent of the expenditure limit
3 established in section 11-000(d) for each election.

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

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

10 (e) Each candidate who qualified for the maximum amount of
11 public funding in any primary election and who is a candidate
12 for a subsequent general election shall apply with the
13 commission to be qualified to receive the maximum amount of
14 public funds as provided in this section for the respective
15 general election. For purposes of this section, "qualified"
16 means meeting the qualifying campaign contribution requirements
17 of section 11-UUU.

18 **§11-RRR Candidate exceeds voluntary expenditure limit.** A
19 candidate who files the affidavit agreeing to limit expenditures
20 and who exceeds the expenditure limit for that election shall:



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

4 (2) Pay the balance of the full filing fee; and

5 (3) Provide reasonable notice to all contributors within
6 thirty days of exceeding the limit that the
7 expenditure limit was exceeded and contributions to
8 the candidate no longer qualify for a state income tax
9 deduction.

10 **§11-SSS Reserving use of contributions.** A candidate who
11 files the affidavit voluntarily agreeing to limit expenditures
12 and who receives contributions that in aggregate exceed the
13 expenditure limit for an election shall reserve use of any
14 contributions that exceed the limit until after the applicable
15 election.

16 **§11-TTT Eligibility requirements for public funds.** In
17 order to be eligible to receive public funds for an election, a
18 candidate shall certify that the candidate will meet all the
19 following requirements:

20 (1) The candidate and any candidate committee authorized
21 by the candidate shall not incur campaign expenses in



1 excess of the expenditure limitations imposed by
2 section 11-000;

3 (2) The candidate has qualified to be on the election
4 ballot in a primary or general election;

5 (3) The candidate has filed a statement of intent to seek
6 qualifying contributions. A contribution received
7 before the filing of a statement of intent to seek
8 public funds shall not be considered a qualifying
9 contribution;

10 (4) The candidate or candidate committee authorized by the
11 candidate has received the minimum qualifying
12 contribution amounts for the office sought by the
13 candidate as set forth in section 11-UUU;

14 (5) The aggregate of contributions certified with respect
15 to any person under paragraph (4) does not exceed
16 \$100;

17 (6) The candidate agrees to obtain and furnish any
18 evidence relating to expenditures that the commission
19 may request;

20 (7) The candidate agrees to keep and furnish records,
21 books, and other information that the commission may
22 request;



1 (8) The candidate agrees to an audit and examination by
2 the commission pursuant to section 11-ZZZ and to pay
3 any amounts required to be paid pursuant to that
4 section; and

5 (9) Each candidate and candidate committee in receipt of
6 qualifying contributions that may be taken into
7 account for purposes of public funding shall maintain,
8 on a form prescribed by the commission, records that
9 show the date and amount of each qualifying
10 contribution and the full name and mailing address of
11 the person making the contribution. The candidate and
12 the candidate committee authorized by the candidate
13 shall transmit to the commission all reports with
14 respect to these contributions that the commission may
15 require.

16 **§11-UUU Minimum qualifying contribution amounts;**

17 **qualifying contribution statement.** (a) As a condition of
18 receiving public funds for a primary or general election, a
19 candidate shall not be unopposed in any election for which
20 public funds are sought, shall have filed an affidavit with the
21 commission pursuant to section 11-000 to voluntarily limit the
22 candidate's campaign expenditures, and shall be in receipt of



1 the following sum of qualifying contributions from individual
2 residents of Hawaii:

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

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

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

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

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

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

14 (D) County of Kauai - qualifying contributions that
15 in the aggregate exceed \$5,000;

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

18 (A) County of Honolulu - qualifying contributions
19 that in the aggregate exceed \$30,000;

20 (B) County of Hawaii - qualifying contributions that
21 in the aggregate exceed \$10,000; and



- 1 (C) County of Kauai - qualifying contributions that
2 in the aggregate exceed \$5,000;
- 3 (5) For the office of county council - for each respective
4 county:
- 5 (A) County of Honolulu - qualifying contributions
6 that in the aggregate exceed \$5,000;
- 7 (B) County of Hawaii - qualifying contributions that
8 in the aggregate exceed \$1,500;
- 9 (C) County of Maui - qualifying contributions that in
10 the aggregate exceed \$5,000; and
- 11 (D) County of Kauai - qualifying contributions that
12 in the aggregate exceed \$3,000;
- 13 (6) For the office of state senator - qualifying
14 contributions that, in the aggregate exceed \$2,500;
- 15 (7) For the office of state representative - qualifying
16 contributions that, in the aggregate, exceed \$1,500;
- 17 (8) For the office of Hawaiian affairs - qualifying
18 contributions that, in the aggregate, exceed \$1,500;
19 and
- 20 (9) For all other offices, qualifying contributions that,
21 in the aggregate, exceed \$500.



1 (b) A candidate shall obtain the minimum qualifying
2 contribution amount set forth in subsection (a) once for the
3 election period.

4 (1) If the candidate obtains the minimum qualifying
5 contribution amount, the candidate is eligible to
6 receive:

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

9 (B) Payments of \$1 for each \$1 of qualifying
10 contributions in excess of the minimum qualifying
11 contribution amounts; and

12 (2) A candidate shall have at least one other qualified
13 candidate as an opponent for the primary or general
14 election to receive public funds for that election.

15 (c) The candidate shall not receive more than the maximum
16 amount of public funds available to a candidate pursuant to
17 section 11-000; provided that the candidate shall not receive
18 public funds for a primary election if the candidate does not
19 obtain the minimum qualifying contribution amounts before the
20 date of the primary election.

21 **§11-VV Application for public funds.** (a) Each
22 application for public funds shall be signed by the candidate



1 and notarized, and accompanied by the qualifying campaign
2 contribution statement or statements.

3 (b) The application shall be mailed or delivered to the
4 commission and shall not be valid unless received by the
5 commission no later than thirty days after the general election.

6 (c) Each candidate in receipt of the minimum qualifying
7 contribution amount established for the office that the
8 candidate seeks may apply to the commission for public funding
9 after the candidate has become a candidate in a primary or
10 general election.

11 **§11-WWW Payment to candidate.** (a) Upon the commission's
12 approval of the application and statement of qualifying
13 contributions, the commission shall direct the comptroller to
14 distribute matching public funds up to the maximum amount of
15 public funds allowed by section 11-000. Public funds shall be
16 distributed to the candidate within twenty days from the date
17 that the candidate's initial application and qualifying
18 contribution statement is approved by the commission.

19 (b) The commission shall make additional determinations
20 within fourteen days after receiving a complete application and
21 supplemental statement of qualifying contributions from a
22 candidate.



1 (c) All determinations made by the commission under this
2 section are final and conclusive, except to the extent they are
3 subject to examination and audit by the commission under section
4 11-ZZZ.

5 **§11-XXX Use of public funds.** (a) Public funds shall be
6 deposited in a depository institution, as defined in 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.

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

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

16 (1) Defray expenditures of the candidate or the candidate
17 committee authorized by the candidate; and

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

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



1 (e) Unexpended public funds shall be returned to the
2 commission by the deadline for filing the final report for the
3 election for which the funds were received.

4 **§11-YYY Post-election report required.** The treasurer
5 shall electronically submit an expenditure of public funds
6 report to the commission no later than twenty days after a
7 primary election and no later than thirty days after a general
8 election certifying that all public funds paid to the candidate
9 have been used as required by this part.

10 Should the commission determine that any portion of the
11 public funds have been used for noncampaign or other improper
12 expenses, it shall report such finding to the attorney general
13 and shall order the candidate to return all or part of the funds
14 paid to that candidate for a primary or general election. When
15 public funds are returned, the funds shall be deposited into the
16 Hawaii election campaign fund.

17 **§11-ZZZ Post-election examination and audit; return of**
18 **funds.** (a) The commission shall examine and audit the public
19 funds received by all candidates, qualifying contributions, and
20 the expenditures made by all candidates within sixty days after
21 each general election.



1 (b) The commission shall adopt rules, pursuant to chapter
2 91, prior to the payment of public money, regarding expenditures
3 which qualify under section 11-XXX.

4 (c) If the commission determines that any payment of
5 public funds to a candidate exceeded the aggregate amount to
6 which the candidate was entitled, the commission shall notify
7 the candidate within two years of the payment of the public
8 funds and the candidate shall repay the excess amount to the
9 Hawaii election campaign fund.

10 (d) If the commission determines that any public funds
11 were used for any improper purpose, the commission shall notify
12 the candidate, and the candidate shall pay to the Hawaii
13 election campaign fund an amount equal to three hundred per cent
14 of such amount in addition to any fines under section 11-JJJ and
15 section 11-LLL.

16 **§11-AAAA Report and recommendation.** In January of each
17 year, the commission shall submit to the legislature:

18 (1) A study and recommendations of reasonable campaign
19 expenditure and contribution limits and the factors
20 which may be relevant in their establishment; and

21 (2) A report concerning the status of the Hawaii election
22 fund."



1 SECTION 3. Chapter 11, Hawaii Revised Statutes, is amended
2 by adding a new section to the new part added by section 2 of
3 this Act, to be appropriately designated and to read as follows:

4 "§11- Filing report by corporations. (a) A
5 corporation shall file a report with the commission for
6 contributions from its own treasury that aggregate more than
7 \$1,000 per two year election period made directly to a candidate
8 or candidate committee; provided that this section shall not
9 authorize contributions to a candidate or candidate committee
10 where otherwise prohibited by this part. The reporting shall be
11 made pursuant to the time requirements contained in section 11-U
12 and section 11-W.

13 (b) The filing shall include the name of the corporation,
14 business address, a contact individual, and amounts contributed
15 that are more than \$100 to each candidate or candidate committee."

16 **PART III**

17 SECTION 4. Section 12-6, Hawaii Revised Statutes, is
18 amended by amending subsection (e) to read as follows:

19 "[+] (e) [+] Upon the showing of a certified copy of an
20 affidavit which has been filed with the campaign spending
21 commission pursuant to section [~~11-208~~] 11-000 by a candidate
22 who has voluntarily agreed to abide by spending limits, the



1 chief election officer or clerk shall discount the filing fee of
2 the candidate by the following amounts:

3 (1) For the office of governor and lieutenant governor--
4 \$675;

5 (2) For the office of mayor--\$450; and

6 (3) For all other offices--\$225."

7 SECTION 5. Section 235-7, Hawaii Revised Statutes, is
8 amended by amending subsection (g) to read as follows:

9 "(g) In computing taxable income there shall be allowed as
10 a deduction:

11 (1) Political contributions by any taxpayer not in excess
12 of \$250 in any year; provided that such contributions
13 are made to a central or county committee of a
14 political party whose candidates shall have qualified
15 by law to be voted for at the immediately previous
16 general election; or

17 (2) Political contributions by any individual taxpayer in
18 an aggregate amount not to exceed \$1,000 in any year;
19 provided that such contributions are made to
20 candidates as defined in section [~~11-191,~~] 11-B, who
21 have agreed to abide by the campaign expenditure
22 limits as set forth in section [~~11-209,~~] 11-000; and



1 provided further that not more than \$250 of an
2 individual's total contribution to any single
3 candidate shall be deductible for purposes of this
4 section."

5 SECTION 6. Section 281-22, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) Notwithstanding chapter 11 or any other law to the
8 contrary, no commission employee shall solicit or receive
9 contributions, or receive or transfer money or anything of value
10 from a licensee for the purpose of supporting, advocating, or
11 aiding in the election or defeat of a candidate for public
12 office. Violation of this subsection shall be:

- 13 (1) Punishable by summary dismissal of the employee; and
- 14 (2) Subject to [~~penalties~~] fines in accordance with
15 section [~~11-228.~~] 11-JJJ."

16 SECTION 7. Section 853-4, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§853-4 Chapter not applicable; when.** This chapter shall
19 not apply when:

- 20 (1) The offense charged involves the intentional, knowing,
21 reckless, or negligent killing of another person;
- 22 (2) The offense charged is:



- 1 (A) A felony that involves the intentional, knowing,
2 or reckless bodily injury, substantial bodily
3 injury, or serious bodily injury of another
4 person; or
- 5 (B) A misdemeanor or petty misdemeanor that carries a
6 mandatory minimum sentence and that involves the
7 intentional, knowing, or reckless bodily injury,
8 substantial bodily injury, or serious bodily
9 injury of another person;
- 10 (3) The offense charged involves a conspiracy or
11 solicitation to intentionally, knowingly, or
12 recklessly kill another person or to cause serious
13 bodily injury to another person;
- 14 (4) The offense charged is a class A felony;
- 15 (5) The offense charged is nonprobationable;
- 16 (6) The defendant has been convicted of any offense
17 defined as a felony by the Hawaii Penal Code or has
18 been convicted for any conduct that if perpetrated in
19 this State would be punishable as a felony;
- 20 (7) The defendant is found to be a law violator or
21 delinquent child for the commission of any offense
22 defined as a felony by the Hawaii Penal Code or for



1 any conduct that if perpetrated in this State would
2 constitute a felony;

3 (8) The defendant has a prior conviction for a felony
4 committed in any state, federal, or foreign
5 jurisdiction;

6 (9) A firearm was used in the commission of the offense
7 charged;

8 (10) The defendant is charged with the distribution of a
9 dangerous, harmful, or detrimental drug to a minor;

10 (11) The defendant has been charged with a felony offense
11 and has been previously granted deferred acceptance of
12 guilty plea status for a prior offense, regardless of
13 whether the period of deferral has already expired;

14 (12) The defendant has been charged with a misdemeanor
15 offense and has been previously granted deferred
16 acceptance of guilty plea status for a prior felony,
17 misdemeanor, or petty misdemeanor for which the period
18 of deferral has not yet expired;

19 (13) The offense charged is:

20 (A) Escape in the first degree;

21 (B) Escape in the second degree;

22 (C) Promoting prison contraband in the first degree;



- 1 (D) Promoting prison contraband in the second degree;
- 2 (E) Bail jumping in the first degree;
- 3 (F) Bail jumping in the second degree;
- 4 (G) Bribery;
- 5 (H) Bribery of or by a witness;
- 6 (I) Intimidating a witness;
- 7 (J) Bribery of or by a juror;
- 8 (K) Intimidating a juror;
- 9 (L) Jury tampering;
- 10 (M) Promoting prostitution in the first degree;
- 11 (N) Promoting prostitution in the second degree;
- 12 (O) Promoting prostitution in the third degree;
- 13 (P) Abuse of family or household members;
- 14 (Q) Sexual assault in the second degree;
- 15 (R) Sexual assault in the third degree;
- 16 (S) A violation of an order issued pursuant to
- 17 chapter 586;
- 18 (T) Promoting child abuse in the second degree;
- 19 (U) Promoting child abuse in the third degree;
- 20 (V) Electronic enticement of a child in the first
- 21 degree; or



1 (W) Electronic enticement of a child in the second
2 degree;

3 (14) The defendant has been charged with:

4 (A) Knowingly or intentionally falsifying any report
5 required under chapter 11, [~~subpart B of part~~
6 ~~XII,~~] part _____ with the intent to circumvent the
7 law or deceive the campaign spending commission;
8 or

9 (B) Violating section [~~11-201~~] 11-EE or [~~11-202~~]
10 11-FF; or

11 (15) The defendant holds a commercial driver's license and
12 has been charged with violating a traffic control law,
13 other than a parking law, in connection with the
14 operation of any type of motor vehicle.

15 The court may adopt by rule other criteria in this area."

16 SECTION 8. Section 853-4, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§853-4 Chapter not applicable; when.** This chapter shall
19 not apply when:

20 (1) The offense charged involves the intentional, knowing,
21 reckless, or negligent killing of another person;

22 (2) The offense charged is:



- 1 (A) A felony that involves the intentional, knowing,
2 or reckless bodily injury, substantial bodily
3 injury, or serious bodily injury of another
4 person; or
- 5 (B) A misdemeanor or petty misdemeanor that carries a
6 mandatory minimum sentence and that involves the
7 intentional, knowing, or reckless bodily injury,
8 substantial bodily injury, or serious bodily
9 injury of another person;
- 10 (3) The offense charged involves a conspiracy or
11 solicitation to intentionally, knowingly, or
12 recklessly kill another person or to cause serious
13 bodily injury to another person;
- 14 (4) The offense charged is a class A felony;
- 15 (5) The offense charged is nonprobationable;
- 16 (6) The defendant has been convicted of any offense
17 defined as a felony by the Hawaii Penal Code or has
18 been convicted for any conduct that if perpetrated in
19 this State would be punishable as a felony;
- 20 (7) The defendant is found to be a law violator or
21 delinquent child for the commission of any offense
22 defined as a felony by the Hawaii Penal Code or for



1 any conduct that if perpetrated in this State would
2 constitute a felony;

3 (8) The defendant has a prior conviction for a felony
4 committed in any state, federal, or foreign
5 jurisdiction;

6 (9) A firearm was used in the commission of the offense
7 charged;

8 (10) The defendant is charged with the distribution of a
9 dangerous, harmful, or detrimental drug to a minor;

10 (11) The defendant has been charged with a felony offense
11 and has been previously granted deferred acceptance of
12 guilty plea status for a prior offense, regardless of
13 whether the period of deferral has already expired;

14 (12) The defendant has been charged with a misdemeanor
15 offense and has been previously granted deferred
16 acceptance of guilty plea status for a prior felony,
17 misdemeanor, or petty misdemeanor for which the period
18 of deferral has not yet expired;

19 (13) The offense charged is:

20 (A) Escape in the first degree;

21 (B) Escape in the second degree;

22 (C) Promoting prison contraband in the first degree;



- 1 (D) Promoting prison contraband in the second degree;
- 2 (E) Bail jumping in the first degree;
- 3 (F) Bail jumping in the second degree;
- 4 (G) Bribery;
- 5 (H) Bribery of or by a witness;
- 6 (I) Intimidating a witness;
- 7 (J) Bribery of or by a juror;
- 8 (K) Intimidating a juror;
- 9 (L) Jury tampering;
- 10 (M) Promoting prostitution in the first degree;
- 11 (N) Promoting prostitution in the second degree;
- 12 (O) Promoting prostitution in the third degree;
- 13 (P) Abuse of family or household members;
- 14 (Q) Sexual assault in the second degree;
- 15 (R) Sexual assault in the third degree;
- 16 (S) A violation of an order issued pursuant to
- 17 chapter 586;
- 18 (T) Promoting child abuse in the second degree;
- 19 (U) Promoting child abuse in the third degree;
- 20 (V) Electronic enticement of a child in the first
- 21 degree;



- 1 (W) Electronic enticement of a child in the second
2 degree; or
- 3 (X) An offense under part IV, chapter 291E;
- 4 (14) The defendant has been charged with:
- 5 (A) Knowingly or intentionally falsifying any report
6 required under chapter 11, [~~subpart B of part~~
7 ~~XII,~~] part _____ with the intent to circumvent the
8 law or deceive the campaign spending commission;
9 or
- 10 (B) Violating section [~~11-201~~] 11-EE or [~~11-202~~]
11 11-FF; or
- 12 (15) The defendant holds a commercial driver's license and
13 has been charged with violating a traffic control law,
14 other than a parking law, in connection with the
15 operation of any type of motor vehicle.

16 The court may adopt by rule other criteria in this area."

17 SECTION 9. Chapter 11, part XII, subpart B, Hawaii Revised
18 Statutes, is repealed.

19 **PART IV**

20 SECTION 10. This Act does not affect rights and duties
21 that matured, penalties that were incurred, and proceedings that
22 were begun, before its effective date.



1 SECTION 11. If any provision of this Act, or the
2 application thereof to any person or circumstance is held
3 invalid, the invalidity shall not affect other provisions or
4 applications of the Act, which can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

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

11 SECTION 13. This Act shall take effect upon approval;
12 provided that section 3 shall take effect on January 1, 2011;
13 and provided further that, on January 1, 2011, section 7 shall
14 be repealed and section 8 shall take effect.

15

APPROVED this day of , 2010

GOVERNOR OF THE STATE OF HAWAII

