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STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
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January 31, 2017

TO: The Honorable Gilbert S.C. Keith-Agaran, Chair
Senate Committee on Judiciary and Labor

The Honorable Karl Rhoads, Vice Chair
Senate Committee on Judiciary and Labor

Members of the Senate Committee on Judiciary and Labor

FROM: Kristin Izumi-Nitao, Executive Director ^{KIN}
Campaign Spending Commission

SUBJECT: **Testimony on S.B. No. 336, Relating to Elections**

Thursday, February 2, 2017
9:00 a.m., Conference Room 016

Thank you for the opportunity to testify on this bill.¹ Staff of the Campaign Spending Commission ("Commission") offer its comments on this bill.² Staff supports this bill.

Section 1 of this bill amends the definition of "advertisement" in Hawaii Revised Statutes ("HRS") § 11-302 by expressly excluding "communications of a candidate's name on clothing or other attire **not**³ directly associated with that candidate's campaign committee. [Emphasis added.]" The Commission already considers clothing to be a sundry item, and therefore exempt from the disclaimer requirement. Hawaii Administrative Rule §3-160-2. Thus, clothing containing the name of a candidate would not be considered an advertisement. However, the Commission would appreciate the Legislature's affirmance of the Commission's interpretation of "sundry items" through the passage of Section 1 of this measure.

¹ The companion bill is H.B. 1237.

² The Commission will consider this measure at its February 15, 2017 meeting. At that time, staff will present its recommendations on this bill to the Commission.

³ Based upon language in section 2 of this bill (page 3, lines 10-12), the phrase may have been intended to read: "attire directly associated with that candidate's campaign committee."

Also, instead of setting aside “advertisement” a second time in §11-302, Commission staff suggests that the Committee amend the measure by adding “and clothing or other attire that is directly related to a candidate’s campaign” after “bumper stickers.” Then delete the second reference to “advertisement” at the end of Section 1 of the bill that is underscored.

Section 2 of the bill amends HRS §11-341 by excluding “clothing or other attire” from the definition of “electioneering communications.” With the understanding that clothing is to be worn by an individual, staff does not consider clothing to be “advertisement that is broadcast from a cable, satellite, television, or radio broadcast station; published in any periodical or newspaper or by electronic means; or sent by mail at a bulk rate.” Thus HRS §11-341 does not apply to clothing or attire. However, the language proposed in Section 2 would unarguably exempt clothing and attire with a candidate’s name from the requirements of the electioneering communication statute.

Staff of the Commission requests that this Committee pass this measure.