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# A BILL FOR AN ACT

RELATING TO CAMPAIGN FINANCE.

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

1           SECTION 1. The legislature finds that the State has a  
2 compelling interest in securing its democratic self-governance  
3 from foreign influence.

4           The legislature finds that former President Barack Obama  
5 warned of foreign corporate spending in state elections, and  
6 that Ann Ravel, former commissioner of the Federal Election  
7 Commission, specifically called on states to enact legislation  
8 to limit the influence of foreign corporate spending in American  
9 elections.

10          The legislature also finds that several states and  
11 municipalities, such as Alaska; Connecticut; Massachusetts; New  
12 York City; and St. Petersburg, Florida, have enacted or are  
13 considering enacting legislation to limit foreign corporate  
14 spending and protect the integrity of their elections from  
15 foreign corporate influence.

16          The purpose of this Act is to protect the State's  
17 democratic self-governance by:



- 1 (1) Prohibiting foreign nationals and foreign corporations
- 2 from making independent expenditures;
- 3 (2) Requiring every corporation that contributes or
- 4 expends funds in a State election to file a statement
- 5 of certification regarding its status as a foreign
- 6 corporation; and
- 7 (3) Requiring noncandidate committees making only
- 8 independent expenditures to obtain a statement of
- 9 certification from each top contributor required to be
- 10 listed in an advertisement.

11 SECTION 2. Section 11-302, Hawaii Revised Statutes, is  
 12 amended by adding five new definitions to be appropriately  
 13 inserted and to read as follows:

14 "Chief executive officer" means the highest-ranking  
 15 officer or decision-making individual with authority over a  
 16 corporation's affairs.

17 "Foreign corporation" means a corporation for which at  
 18 least one of the following conditions is met:

- 19 (1) A single foreign owner holds, owns, controls, or
- 20 otherwise has direct or indirect beneficial ownership
- 21 of one per cent or more of the total equity,



- 1           outstanding voting shares, membership units, or other  
2           applicable ownership interests of the corporation;
- 3           (2) Two or more foreign owners, in aggregate, hold, own,  
4           control, or otherwise have direct or indirect  
5           beneficial ownership of five per cent or more of the  
6           total equity, outstanding voting shares, membership  
7           units, or other applicable ownership interests of the  
8           corporation; or
- 9           (3) A foreign owner participates directly or indirectly in  
10           the corporation's decision-making process with respect  
11           to the corporation's political activities in the  
12           United States.
- 13           "Foreign investor" means a person or entity that:
- 14           (1) Holds, owns, controls, or otherwise has direct or  
15           indirect beneficial ownership of equity, outstanding  
16           voting shares, membership units, or other applicable  
17           ownership interests of a corporation; and
- 18           (2) Is:
- 19           (A) A government of a foreign country, a foreign  
20           political party, or a partnership, association,  
21           corporation, organization, or other combination



1                   of persons organized under the laws of or having  
2                   its principal place of business in a foreign  
3                   country; or

4                   (B) A foreign national.

5                   "Foreign national" means an individual who is not a citizen  
6 of the United States or a national of the United States and who  
7 is not lawfully admitted for permanent residence.

8                   "Foreign owner" means:

9                   (1) A foreign investor; or

10                  (2) A corporation wherein a foreign investor holds, owns,  
11 controls, or otherwise has directly or indirectly  
12 acquired a beneficial ownership of equity or voting  
13 shares in an amount that is equal to or greater than  
14 fifty per cent of the total equity or outstanding  
15 voting shares."

16                  SECTION 3. Section 11-356, Hawaii Revised Statutes, is  
17 amended to read as follows:

18                  " ~~[§]~~11-356 ~~[§]~~ Contributions and expenditures by a foreign  
19 national or foreign corporation; prohibited. (a) Except as  
20 provided in subsection ~~[(b)],~~ (c), no contributions or  
21 expenditures shall be made to or on behalf of a candidate,



1 candidate committee, or noncandidate committee, by a foreign  
2 national or foreign corporation, including a domestic subsidiary  
3 of a foreign corporation, a domestic corporation that is owned  
4 by a foreign national, or a local subsidiary where  
5 administrative control is retained by the foreign corporation,  
6 and in the same manner prohibited under [2] title 52 United  
7 States Code section [441e] 30121 and title 11 Code of Federal  
8 Regulations section 110.20, as amended.

9 (b) No independent expenditures shall be made by a foreign  
10 national or foreign corporation.

11 [~~(b)~~] (c) A [~~foreign-owned domestic~~] foreign corporation  
12 may make [~~contributions~~] a contribution to or an expenditure on  
13 behalf of a candidate, candidate committee, or noncandidate  
14 committee if:

15 (1) [~~Foreign~~] No foreign national [~~individuals do not~~  
16 ~~participate~~] or foreign corporation participated in  
17 the foreign corporation's election-related activities,  
18 including decisions concerning contributions,  
19 expenditures, or the administration of a candidate  
20 committee or noncandidate committee; or



1           (2) The [~~contributions~~] funds from which the foreign  
2                   corporation made the contribution or expenditure are  
3                   domestically-derived.

4           (d) Every corporation that contributes to or makes an  
5           expenditure on behalf of a candidate, candidate committee, or  
6           noncandidate committee shall, within seven business days after  
7           making such contribution or expenditure, file with the chief  
8           election officer a statement of certification signed by the  
9           corporation's chief executive officer, under penalty of perjury,  
10           avowing that, after due inquiry, the corporation was:

11           (1) Not a foreign corporation on the date the expenditure  
12                   or contribution was made; or

13           (2) A foreign corporation on the date the expenditure or  
14                   contribution was made, but that:

15           (A) No foreign national or foreign corporation  
16                   participated in the corporation's  
17                   election-related activities, including decisions  
18                   concerning contributions, expenditures, or the  
19                   administration of a candidate committee or  
20                   noncandidate committee; or



1           (B) The funds from which the foreign corporation made  
2           the contribution or expenditure were  
3           domestically-derived.

4           (e) Every corporation that makes an independent  
5 expenditure shall, within seven business days after making the  
6 independent expenditure, file with the chief election officer a  
7 statement of certification signed by the corporation's chief  
8 executive officer, under penalty of perjury, avowing that, after  
9 due inquiry, the corporation was not a foreign corporation on  
10 the date the independent expenditure was made.

11           (f) For the purposes of this section, "corporation" means  
12 a corporation, company, limited liability company, limited  
13 partnership, business trust, business association, or other  
14 legal entity."

15           SECTION 4. Section 11-393, Hawaii Revised Statutes, is  
16 amended to read as follows:

17           "~~+~~ §11-393 ~~+~~ Identification of certain top contributors  
18 to noncandidate committees making only independent expenditures.

19           (a) An advertisement shall contain an additional notice in a  
20 prominent location immediately after or below the notices  
21 required by section 11-391, if the advertisement is broadcast,



1 televised, circulated, or published, including by electronic  
2 means, and is paid for by a noncandidate committee that  
3 certifies to the commission that it makes only independent  
4 expenditures. This additional notice shall start with the  
5 words, "The three top contributors for this advertisement are",  
6 followed by the names of the three top contributors, as defined  
7 in subsection [~~(e)~~] (f), who made the highest aggregate  
8 contributions to the noncandidate committee for the purpose of  
9 funding the advertisement; provided that:

- 10 (1) If a noncandidate committee is only able to identify  
11 two top contributors who made contributions for the  
12 purpose of funding the advertisement, the additional  
13 notice shall start with the words, "The two top  
14 contributors for this advertisement are", followed by  
15 the names of the two top contributors;
- 16 (2) If a noncandidate committee is able to identify only  
17 one top contributor who made contributions for the  
18 purpose of funding the advertisement, the additional  
19 notice shall start with the words, "The top  
20 contributor for this advertisement is", followed by  
21 the name of the top contributor;





1           (3) If a noncandidate committee is unable to identify any  
2           top contributors who made contributions for the  
3           purpose of funding the advertisement, the additional  
4           notice shall start with the words, "The three top  
5           contributors for this noncandidate committee are",  
6           followed by the names of the three top contributors  
7           who made the highest aggregate contributions to the  
8           noncandidate committee; and

9           (4) If there are no top contributors to the noncandidate  
10          committee, the noncandidate committee shall not be  
11          subject to this section.

12 In no case shall a noncandidate committee be required to  
13 identify more than three top contributors pursuant to this  
14 section.

15          (b) If a noncandidate committee has more than three top  
16 contributors who contributed in equal amounts, the noncandidate  
17 committee may select which of the top contributors to identify  
18 in the advertisement; provided that the top contributors not  
19 identified in the advertisement did not make a higher aggregate  
20 contribution than those top contributors who are identified in  
21 the advertisement. The additional notice required for



1 noncandidate committees described under this subsection shall  
2 start with the words "Three of the top contributors for this  
3 advertisement are" or "Three of the top contributors to this  
4 noncandidate committee are", as appropriate, followed by the  
5 names of the three top contributors.

6 (c) This section shall not apply to advertisements  
7 broadcast by radio or television of such short duration that  
8 including a list of top contributors in the advertisement would  
9 constitute a hardship to the noncandidate committee paying for  
10 the advertisement. A noncandidate committee shall be subject to  
11 all other requirements under this part regardless of whether a  
12 hardship exists pursuant to this subsection. The commission  
13 shall adopt rules pursuant to chapter 91 to establish criteria  
14 to determine when including a list of top contributors in an  
15 advertisement of short duration constitutes a hardship to a  
16 noncandidate committee under this subsection.

17 (d) A noncandidate committee shall obtain a statement of  
18 certification from each top contributor required to be listed in  
19 an advertisement pursuant to this section avowing under penalty  
20 of perjury that after due inquiry none of the funds contributed  
21 by the top contributor were derived from a foreign corporation.



1 If a noncandidate committee does not receive a statement of  
2 certification from a top contributor, the advertisement shall  
3 include the following statement: "Some of the funds used to pay  
4 for this message may have been provided by foreign  
5 corporations." A noncandidate committee shall be entitled to  
6 rely on a statement of certification provided by a top  
7 contributor, unless the noncandidate committee has actual  
8 knowledge that the statement of certification is false.

9       ~~[(d)]~~ (e) Any noncandidate committee that violates this  
10 section shall be subject to a fine under section 11-410.

11       ~~[(e)]~~ (f) For purposes of this part, "top contributor"  
12 means a contributor who has contributed an aggregate amount of  
13 \$10,000 or more to a noncandidate committee within a  
14 twelve-month period prior to the purchase of an advertisement."

15       SECTION 5. Nothing in this Act shall be construed to  
16 diminish or infringe upon any right protected under the First  
17 Amendment of the Constitution of the United States or conflict  
18 with any federal statute or regulation.

19       SECTION 6. If any provision of this Act, or the  
20 application thereof to any person or circumstance, is held  
21 invalid, the invalidity does not affect other provisions or



1 applications of the Act that can be given effect without the  
2 invalid provision or application, and to this end the provisions  
3 of this Act are severable.

4 SECTION 7. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 8. This Act shall take effect on July 1, 2050.



**Report Title:**

Campaign Finance; Foreign Corporations

**Description:**

Prohibits foreign nationals and foreign corporations from making independent expenditures. Requires every corporation that contributes or expends funds in a state election to file a statement of certification regarding its limited foreign influence. Requires noncandidate committees making only independent expenditures to obtain a statement of certification from each top contributor required to be listed in an advertisement. Takes effect on 7/1/2050. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

