



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2023**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 467, S.D. 1, PROPOSING AN AMENDMENT TO ARTICLE II OF THE CONSTITUTION OF THE STATE OF HAWAII.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

**DATE:** Friday, March 17, 2023

**TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Candace J. Park, Deputy Attorney General

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Chair Tarnas and Members of the Committee:

The Department of the Attorney General opposes the bill in its current form.

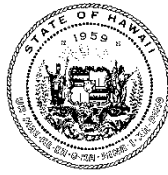
The purpose of this bill is to propose an amendment to article II of the Hawaii State Constitution to allow the State to enact laws establishing limitations on moneys expended by any noncandidate committee making only independent expenditures to influence the outcome of a state election.

As we have discussed previously, an expenditure limit on noncandidate committees making only independent campaign expenditures has been deemed a violation of the First Amendment to the United States Constitution by the United States Supreme Court. *Citizens United v. Federal Election Commission*, 558 U.S. 310, 365 (2010) ("[n]o sufficient governmental interest justifies limits on the political speech of nonprofit or for-profit corporations"). *Citizens United* is the seminal case that invalidated federal law restricting corporate independent expenditures, overruling prior United States Supreme Court decisions that upheld restrictions on corporate independent expenditures.

Because the amendment proposed by this bill is unconstitutional under the First Amendment to the United States Constitution, we respectfully request the Committee to hold this bill.

Thank you for the opportunity to provide these comments.

**KRISTIN E. IZUMI-NITAO**  
EXECUTIVE DIRECTOR



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**STATE OF HAWAII**  
**CAMPAIGN SPENDING COMMISSION**

235 SOUTH BERETANIA STREET, ROOM 300  
HONOLULU, HAWAII 96813

March 16, 2023

TO: The Honorable David A. Tarnas, Chair  
House Committee on Judiciary & Hawaiian Affairs

The Honorable Gregg Takayama, Vice Chair  
House Committee on Judiciary & Hawaiian Affairs

Members of the House Committee on Judiciary & Hawaiian Affairs

FROM: Kristin Izumi-Nitao, Executive Director  
Campaign Spending Commission

SUBJECT: **Testimony on S.B. No. 467, SD 1, Proposing an Amendment to Article II of the Constitution of the State of Hawaii.**

Friday, March 17, 2023  
2:00 p.m., Conference Room 325 & Videoconference

Thank you for the opportunity to testify on this bill. The Campaign Spending Commission (“Commission”) offers the following comments on this bill.

This bill proposes an amendment to Article II of the Constitution of the State of Hawaii to allow the state to enact laws establishing limitations on moneys expended by any noncandidate committee making only independent expenditures to influence the outcome of a state election. The Commission notes that the Department of the Attorney General (“AG”) submitted testimony to the Senate Committee on Ways and Means indicating that the amendment proposed by this bill is unconstitutional. The Commission defers to the AG.

**SB-467-SD-1**

Submitted on: 3/15/2023 7:42:53 PM

Testimony for JHA on 3/17/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Andrew Crossland	Individual	Support	Written Testimony Only

Comments:

I support this Bill.