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# A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO THE HAWAII STATE CONSTITUTION  
REGARDING THE FREEDOM OF SPEECH.

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

1           SECTION 1. The legislature finds that the United States  
2 Supreme Court's decision in *Citizens United v. Federal Election*  
3 *Commission*, 558 U.S. 310 (2010), reversed long-standing campaign  
4 finance restrictions and designated corporate spending on  
5 elections as free speech protected under the First Amendment of  
6 the Constitution of the United States. The decision removed any  
7 limits on the amount of money that corporations, special  
8 interest groups, and political action committees (PACs) could  
9 spend on an election. The legislature further finds that the  
10 decision in *Citizens United* is a serious threat to our  
11 democracy. Corporations enjoy various advantages, including  
12 limited liability, perpetual life, and favorable treatment in  
13 the accumulation and distribution of assets, which allow them to  
14 amass and spend an extraordinary amount of money on political  
15 messages that often have far greater reach and influence than  
16 messages from individuals. During the thirteen years since the



1 *Citizens United* decision, there has been a massive increase in  
2 political spending by corporations, special interest groups, and  
3 PACs, dramatically expanding their already outsized political  
4 influence on election outcomes and policy decisions.

5       The legislature also finds that the power to amend state  
6 constitutions rests with the people of each state, and the  
7 legislature believes it is critical that the State express its  
8 disapproval of the *Citizens United* decision. At least twenty  
9 states, including Hawaii in 2016, have taken legislative action  
10 urging Congress to pass a proposed constitutional amendment that  
11 overturns the decision in *Citizens United*; however, Congress has  
12 failed to take any action and appears unlikely to do so.

13       The legislature acknowledges that as long as *Citizens*  
14 *United* is binding law, this Act will have no effect on the  
15 Constitution of the United States. United States Supreme Court  
16 decisions can be overturned, as demonstrated by the Court's  
17 decision to override the fifty-year-old *Roe v. Wade* decision.  
18 Therefore, a state constitutional provision, while not binding  
19 today, may nonetheless be valuable in the future.

20       Accordingly, the purpose of this Act is to propose an  
21 amendment to article I, section 4, of the Hawaii State



1 Constitution to provide that the expenditure of money to  
2 influence elections is not a form of speech protected under the  
3 Hawaii State Constitution.

4 SECTION 2. Article 1, section 4, of the Constitution of  
5 the State of Hawaii is amended to read as follows:

6 "FREEDOM OF RELIGION, SPEECH, PRESS,  
7 ASSEMBLY AND PETITION

8 Section 4. No law shall be enacted respecting an  
9 establishment of religion, or prohibiting the free exercise  
10 thereof, or abridging the freedom of speech or of the press or  
11 the right of the people peaceably to assemble and to petition  
12 the government for a redress of grievances.

13 The freedom of speech shall not include the expenditure of  
14 money to influence elections."

15 SECTION 3. The question to be printed on the ballot shall  
16 be as follows:

17 "Shall the Hawaii State Constitution be amended to state  
18 that freedom of speech protections under the Hawaii State  
19 Constitution do not include the expenditure of money to  
20 influence elections, which would take effect if the United  
21 States Supreme Court overturns, Congress overrides, or an



1 amendment to the United States Constitution invalidates the  
2 United States Supreme Court's decision in *Citizens United*  
3 *v. Federal Election Commission*, which allows unrestricted  
4 spending by corporations on elections?"

5 SECTION 4. New constitutional material is underscored.

6 SECTION 5. This amendment shall take effect upon  
7 compliance with article XVII, section 3, of the Constitution of  
8 the State of Hawaii.

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INTRODUCED BY:





# S.B. NO. 311

**Report Title:**

Constitutional Amendment; Freedom of Speech; Monetary Expenditures to Influence Elections

**Description:**

Proposes an amendment to the Hawaii State Constitution to provide that freedom of speech protected under the Hawaii State Constitution does not include the expenditure of money to influence elections.

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

