



GOV. MSG. NO. 836

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 15, 2009

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:

I am transmitting herewith HB128 HD1 SD1 CD2, without my approval, and with the statement of objections relating to the measure.

HB128 HD1 SD1 CD2

A BILL FOR AN ACT
RELATING TO ELECTIONS.

Sincerely,



LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 15, 2009

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 128

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 128, entitled "A Bill for an Act Relating to Elections."

The primary purpose of this bill is to repeal and recodify, update, and clarify Chapter 11 of Hawaii Revised Statutes, the campaign spending laws. However, this bill also makes certain significant substantive amendments to the current law.

This bill is objectionable for several reasons. First, this bill changes the process for filling vacancies on the Campaign Spending Commission by significantly reducing the number of nominees. Rather than making a selection from the original list of ten individuals, as presently provided for in section 11-192, Hawaii Revised Statutes, the Governor will be required to select from only two names submitted by the Judicial Council.

Second, this bill narrows the prohibition on contributions by State and county contractors presently specified in section 11-205.5, Hawaii Revised Statutes, to only those contractors that are exempt from competitive bid solicitations pursuant to chapters 102, 103, 103D, and 103F, Hawaii Revised Statutes. The bill further indicates that State and county contractors who are selected via a "competitive

solicitation process" will be allowed to make political contributions, but fails to define this term, which is not defined in State procurement statutes.

Third, 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, allowing more non-Hawaii entities to influence local elections.

Finally, this bill allows surplus or residual campaign funds to be contributed by a candidate to the candidate's party as long as they are not earmarked for another candidate. This means donors who contributed funds to a specific candidate because they supported and admired the opinions of that candidate, may see their funds diverted to a political party that may or may not reflect their views and philosophy.

These types of significant changes in our campaign finance laws should be carefully and thoroughly discussed before they become part of the manner in which we finance political campaigns in this state.

For the foregoing reasons, I am returning House Bill No. 128 without my approval.

Respectfully,


LINDA LINGLE
Governor of Hawaii

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. Definitions

16 §11-A Definitions. When used in this part:

17 "Advertisement" means any communication, excluding sundry
 18 items, including bumper stickers, that:

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



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

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

9 "Campaign funds" means contributions, interest, rebates,
10 refunds, loans, or advances received by a candidate committee or
11 noncandidate committee.

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

17 (1) Files nomination papers for an office for oneself with
18 the county clerk's office or with the chief election
19 officer's office, whichever is applicable;

20 (2) Receives contributions, makes expenditures, or incurs
21 financial obligations of more than \$100 to bring about



1 the individual's nomination for election, or to bring
2 about the individual's election to office;

3 (3) Gives consent for any other person to receive
4 contributions, make expenditures, or incur financial
5 obligations to aid the individual's nomination for
6 election, or the individual's election, to office; or

7 (4) Is certified to be a candidate by the chief election
8 officer or county clerk.

9 "Candidate committee" means an organization, association,
10 or individual that receives campaign funds, makes expenditures,
11 or incurs financial obligations on behalf of a candidate with
12 the candidate's authorization.

13 "Clearly identified" means the name, photograph or other
14 similar image, or other unambiguous identification of a
15 candidate.

16 "Commission" means the campaign spending commission.

17 "Commissioner" means any person appointed to the
18 commission.

19 "Contribution" means:

20 (1) A gift, subscription, deposit of money or anything of
21 value, or cancellation of a debt or legal obligation



1 and includes the purchase of tickets to fundraisers,
2 for the purpose of:

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

5 (B) Influencing the outcome of any question or issue
6 that has been certified to appear on the ballot
7 at the next applicable election referenced in
8 subparagraph (A); or

9 (C) Use by any candidate committee or noncandidate
10 committee for the purpose of subparagraph (A) or
11 (B);

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

19 (3) A contract, promise, or agreement to make a
20 contribution; or



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

4 provided that 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;

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

14 (4) An individual or 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; or

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.

18 "Equipment and services" includes computers, software,
19 internet domain names, internet service providers, and any other
20 technology that is used to provide access to or use of the
21 Internet.

22



1 "Expenditure" means:

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

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

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

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

17 (2) Any payment, by any person other than a candidate,
18 candidate committee, or noncandidate committee, of
19 compensation for the services of another person that
20 are rendered to the candidate, candidate committee, or
21 noncandidate committee for any of the purposes
22 mentioned in paragraph (1) (A); provided that payment



1 under this paragraph shall include provision of
2 services without charge; or

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

5 "Expenditure" does not include:

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

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

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

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

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

20 provided that the internet activity does not apply to:

21 (i) Any payment for an advertisement other than
22 a nominal fee;



- 1 (ii) The purchase or rental of an e-mail address
- 2 list made at the direction of a candidate
- 3 committee or noncandidate committee; or
- 4 (iii) An e-mail address list that is transferred
- 5 to a candidate committee or noncandidate
- 6 committee.

7 "House bulletin" means a communication sponsored by any
8 person in the regular course of publication for limited
9 distribution primarily to its employees or members.

10 "Immediate family" means a candidate's spouse or reciprocal
11 beneficiary, as defined in section 572C-3, and any child,
12 parent, grandparent, brother, or sister of the candidate, and
13 the spouses or reciprocal beneficiaries of such persons.

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

19 "Individual" means a human being.

20 "Internet activities" includes:

- 21 (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) A 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; provided that the amount,
- 22 date, and purpose of each expenditure is provided to



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

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

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

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

18 (1) A candidate committee;

19 (2) Any individual making a contribution or making an
20 expenditure of the individual's own funds or anything
21 of value that the individual originally acquired for



1 the individual's own use and not for the purpose of
2 evading any provision of this part; or

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

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

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

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

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

21 "Political committees established and maintained by a
22 national political party" means:



- 1 (1) The National Committee;
- 2 (2) The House Campaign Committee; and
- 3 (3) The Senate Committee.

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

10 "Special election" means any election other than a primary
 11 or general election.

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

15 **B. Campaign Spending Commission**

16 **§11-B Campaign spending commission established;**
 17 **composition.** (a) There is established a campaign spending
 18 commission, which shall be placed within the department of
 19 accounting and general services for administrative purposes.

20 (b) The commission shall consist of five members
 21 representing the general public, appointed by the governor from
 22 a list of ten nominees submitted by the judicial council. A



1 vacancy on the commission shall be filled by the appointment of
2 one of two persons nominated by the judicial council, or by the
3 reappointment of a commissioner whose term has expired, subject
4 to the limit on length of service imposed by section 26-34.

5 Notwithstanding section 26-34, appointments to the commission
6 shall not be subject to senatorial confirmation.

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-C Terms of office. The term of each commissioner
11 shall be four years.

12 §11-D 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-E 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;
- 3 (4) Permit the inspection, copying, or duplicating of any
4 report required by this part pursuant to rules adopted
5 under chapter 91 by the commission; provided that this
6 paragraph shall not apply to the sale or use of
7 information under section 11-AA;
- 8 (5) Ascertain whether any candidate, candidate committee,
9 or noncandidate committee, or party has failed to file
10 a report required by this part or has filed a
11 substantially defective or deficient report, and to
12 notify these persons by first class mail that the
13 failure to file, or the filing of a substantially
14 defective or deficient report shall be corrected and
15 explained, and that a fine may be assessed. All fines
16 collected under this section shall be deposited in the
17 general fund of the State;
- 18 (6) Hold public hearings;
- 19 (7) Investigate and hold hearings for receiving evidence
20 of any violations pursuant to subpart I of this part;
- 21 (8) Adopt rules pursuant to chapter 91;



- 1 (9) Request the initiation of prosecution for the
2 violation of this part pursuant to section 11-III;
- 3 (10) Administer and monitor the distribution of public
4 funds under this part;
- 5 (11) Suggest accounting methods for candidates, candidate
6 committees, or noncandidate committees in connection
7 with reports and records required by this part;
- 8 (12) Employ or contract, without regard to chapters 76, 78,
9 and 89, persons it finds necessary for the performance
10 of its functions, including a full-time executive
11 director, and to fix their compensation and to dismiss
12 such persons;
- 13 (13) Conduct random audits and field investigations, as
14 necessary; and
- 15 (14) File for injunctive relief when indicated.

16 **§11-F Advisory opinions.** The commission may render
17 written advisory opinions upon the request of any candidate,
18 candidate committee, noncandidate committee, or other person or
19 entity subject to this part, as to whether the facts and
20 circumstances of a particular case constitute or will constitute
21 a violation of the spending laws. If no advisory opinion is
22 rendered within ninety days after all information necessary to



1 issue an opinion has been obtained, it shall be deemed that an
2 advisory opinion was rendered and that the facts and
3 circumstances of that particular case do not constitute a
4 violation of the spending laws. The opinion rendered or deemed
5 rendered, until amended or revoked, shall be binding on the
6 commission in any subsequent charges concerning the candidate,
7 any candidate committee or noncandidate committee, or other
8 person or entity subject to this part, who sought the opinion
9 and acted in reliance on it in good faith, unless material facts
10 were omitted or misstated by the persons in the request for an
11 advisory opinion. Nothing in this section shall be construed to
12 allow the commission to issue rules through an advisory opinion.

13 **§11-G Political activities prohibited.** (a) Each
14 commissioner and employee of the commission shall not
15 participate in any political campaign, including making a
16 contribution to a candidate, candidate committee, or
17 noncandidate committee, during the commissioner's term of office
18 or employee's term of employment.

19 (b) Each commissioner and employee of the commission shall
20 retain the right to:

21 (1) Register and vote in any election;



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

13 (c) Any commissioner or employee of the commission may
14 request an advisory opinion from the state ethics commission to
15 determine whether a particular activity constitutes or would
16 constitute a violation of the code of ethics or this section.

17 **§11-H Exemptions.** (a) The commission shall be exempt
18 from section 26-35(a)(1), (4), and (5) and shall:

- 19 (1) Make direct communications with the governor and
20 legislature;
- 21 (2) Make all decisions regarding employment, appointment,
22 promotion, transfer, demotion, discharge, and job



1 descriptions of all officers and employees of or under
2 the jurisdiction of the commission without the
3 approval of the comptroller; and

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

6 (b) The commission shall follow all applicable personnel
7 laws.

8 C. Registration

9 §11-I Registration of candidate committee or noncandidate
10 committee. (a) Each candidate committee or noncandidate
11 committee shall register with the commission by filing an
12 organizational report as set forth in section 11-J or 11-K, as
13 applicable.

14 (b) Before filing the organizational report, each
15 candidate committee or noncandidate committee shall mail or
16 deliver an electronic filing form to the commission.

17 (c) The form shall include a written acceptance of
18 appointment and certification of each report, as follows:

19 (1) A candidate committee shall file a written acceptance
20 of appointment by the chairperson and treasurer and a
21 certification by the candidate and treasurer of each
22 filed report; or



1 (2) A noncandidate committee shall file a written
2 acceptance of appointment by the chairperson and
3 treasurer and a certification by the chairperson and
4 treasurer of each filed report.

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

7 (1) The date the candidate files nomination papers for
8 office; or

9 (2) The date the candidate or candidate committee receives
10 contributions or makes or incurs expenditures of more
11 than \$100 in the aggregate during the applicable
12 election period.

13 (e) An organizational report need not be filed under this
14 section by an elected official who is a candidate for reelection
15 to the same office in successive elections and has not sought
16 election to any other office during the period between
17 elections, unless the candidate is required to report a change
18 in information pursuant to section 11-J.

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

20 (g) The organizational report for a noncandidate committee
21 shall be filed within ten days of receiving contributions or
22 making or incurring expenditures of more than \$1,000, in the



1 aggregate, in a two-year election period; provided that within
2 the thirty-day period prior to an election, a noncandidate
3 committee shall register by filing an organizational report
4 within two days of receiving contributions or making or
5 incurring expenditures of more than \$1,000, in the aggregate, in
6 a two-year election period.

7 **§11-J Organizational report, candidate committee. (a)**

8 The candidate committee organizational report shall include:

- 9 (1) The committee's name and address, including web page
10 address, if any;
- 11 (2) The candidate's name, address, and telephone number;
- 12 (3) The office being sought by the candidate, district,
13 and party affiliation;
- 14 (4) The chairperson's name and address and, if appointed,
15 the deputy chairperson's name and address;
- 16 (5) The treasurer's name and address and, if appointed,
17 all deputy treasurers' names and addresses;
- 18 (6) The name and address of each depository institution in
19 which the committee will maintain any of its accounts
20 and the applicable account number;
- 21 (7) A certification of statements in the report by the
22 candidate and treasurer; and



1 (8) The name and address of each contributor who
2 contributed an aggregate amount of more than \$100
3 since the last election applicable to the office being
4 sought and the amount and date of deposit of each such
5 contribution.

6 (b) Any change in information previously reported in the
7 organizational report with the exception of subsection (a) (8)
8 shall be electronically filed with the commission within ten
9 days of the change being brought to the attention of the
10 committee chairperson or treasurer.

11 **§11-K Organizational report, noncandidate committee.** (a)
12 The noncandidate committee organizational report shall include:

13 (1) The committee's name, which shall incorporate the full
14 name of the sponsoring entity, if any. An acronym or
15 abbreviation may be used in other communications if
16 the acronym or abbreviation is commonly known or
17 clearly recognized by the general public. The
18 committee's name shall not include the name of a
19 candidate;

20 (2) The committee's address, including web page address,
21 if any;

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



- 1 (4) The name and address of the committee's sponsoring
2 entity. If the committee does not have a sponsoring
3 entity, the committee shall specify the trade,
4 profession, or primary interest of contributors to the
5 committee;
- 6 (5) The name, address, telephone number, occupation, and
7 principal place of business of the chairperson;
- 8 (6) The name, address, telephone number, occupation, and
9 principal place of business of the treasurer and any
10 other officers;
- 11 (7) An indication as to whether the committee was formed
12 to support or oppose a specific ballot question or
13 candidate and, if so, a brief description of the
14 question or the name of the candidate;
- 15 (8) An indication as to whether the committee is a
16 political party committee;
- 17 (9) The name, address, telephone number, occupation, and
18 principal place of business of the custodian of the
19 books and accounts;
- 20 (10) The name and address of the depository institution in
21 which the committee will maintain its campaign account
22 and each applicable account number;



1 (11) A certification of statements in the report by the
2 chairperson and treasurer; and

3 (12) The name, address, employer and occupation of each
4 contributor who contributed an aggregate amount of
5 more than \$100 since the last election and the amount
6 and date of deposit of each such contribution.

7 (b) Any change in information previously reported in the
8 organizational report, with the exception of subsection (a)(12),
9 shall be electronically filed with the commission within ten
10 days of the change being brought to the attention of the
11 committee chairperson or treasurer.

12 **§11-L Treasurer.** (a) Every candidate committee or
13 noncandidate committee shall appoint a treasurer on or before
14 the day it files an organizational report. The following shall
15 be permissible:

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

17 (2) A candidate may be appointed as the treasurer or
18 deputy treasurer; and

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



1 (b) A treasurer may be removed at any time.

2 (c) In case of death, resignation, or removal of the
3 treasurer, the candidate, candidate committee, or noncandidate
4 committee shall promptly appoint a successor. During the period
5 the office of treasurer is vacant, the candidate, candidate
6 committee, or chairperson, or party chairperson, whichever is
7 applicable, shall serve as treasurer.

8 (d) Only the treasurer and deputy treasurers shall be
9 authorized to receive contributions or make or incur
10 expenditures on behalf of the candidate committee or
11 noncandidate committee.

12 (e) The treasurer shall establish and maintain itemized
13 records showing:

14 (1) The amount of each monetary contribution;

15 (2) The description and value of each nonmonetary
16 contribution; and

17 (3) The name and address of each contributor making a
18 contribution of more than \$25 in value.

19 (f) The treasurer shall maintain detailed accounts, bills,
20 receipts, and other records to establish that reports were
21 properly prepared and filed.



1 (g) The records shall be retained for at least five years
2 after the report is filed.

3 §11-M When an individual not to serve as a committee
4 officer. No candidate committee or noncandidate committee that
5 supports or opposes a candidate shall have an officer who serves
6 as an officer on any other candidate committee or noncandidate
7 committee that supports or opposes the same candidate.

8 §11-N Termination of candidate committee's or noncandidate
9 committee's registration. A candidate committee or noncandidate
10 committee may terminate its registration if:

- 11 (1) The candidate committee or noncandidate committee:
- 12 (A) Files a request for registration termination
13 form;
- 14 (B) Files a report disclosing contributions and
15 expenditures not previously reported by the
16 committee and the committee has no surplus or
17 deficit; and
- 18 (C) Mails or delivers to the commission a copy of the
19 committee's closing bank statement; and
- 20 (2) The request is approved by the commission.



1 D. Reporting and Filing with the Commission

2 §11-0 Filing of reports, generally. (a) Every report
3 required to be filed by a candidate or candidate committee shall
4 be certified by the candidate and treasurer.

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

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

9 (d) For purposes of this part, whenever a report is
10 required to be filed with the commission, "filed" means that a
11 report shall be filed with the commission's electronic filing
12 system by the date and time specified for the filing of the
13 report by:

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

16 (A) Office of governor;

17 (B) Office of lieutenant governor;

18 (C) Office of mayor;

19 (D) Office of prosecuting attorney;

20 (E) County council;

21 (F) Senate;

22 (G) House of representatives;



1 (H) Office of Hawaiian affairs; or

2 (I) Board of education; or

3 (2) A noncandidate committee required to be registered
4 with the commission pursuant to section 11-K.

5 (e) In order to be timely filed, a committee's reports
6 shall be filed with the commission's electronic filing system on
7 or before 11:59 p.m. Hawaii Standard Time on the filing date
8 specified.

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

10 **§11-P Candidate committee reports.** (a) The candidate and
11 treasurer shall file preliminary, final, and supplemental
12 reports that shall disclose the following information:

13 (1) The candidate committee's name and address;

14 (2) The cash on hand at the beginning of the reporting
15 period and election period;

16 (3) The reporting period and election period aggregate
17 total for each of the following categories:

18 (A) Contributions;

19 (B) Expenditures;

20 (C) Other receipts; and

21 (D) Loans;



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 and address of each contributor who makes
9 contributions aggregating more than \$100 in an
10 election period; provided that if all the information
11 is not on file, the contribution shall be returned to
12 the contributor within thirty days of deposit;

13 (2) The amount and date of deposit of each contribution
14 and the name, address, occupation, and employer of
15 each contributor who makes contributions aggregating
16 \$1,000 or more during an election period; provided
17 that if all the information is not on file, the
18 contribution shall be returned to the contributor
19 within thirty days of deposit;

20 (3) All expenditures, including the name and address of
21 each payee and the amount, date, and purpose of each
22 expenditure. Expenditures for consultants,



1 advertising agencies and similar firms, credit card
2 payments, salaries, and candidate reimbursements shall
3 be itemized to permit a reasonable person to determine
4 the ultimate intended recipient of the expenditure and
5 its purpose;

6 (4) The amount, date of deposit, and description of other
7 receipts and the name and address of the source of
8 each of the other receipts;

9 (5) Information about each loan received by the committee,
10 together with the names and addresses of the lender
11 and each person liable directly, and amount of each
12 loan. A copy of the executed loan document shall be
13 received by the commission by mail or delivery on or
14 before the filing date for the report covering the
15 reporting period when the loan was received. The
16 document shall contain the terms of the loan,
17 including the interest and repayment schedule.
18 Failure to disclose the loan or to provide
19 documentation of the loan to the commission shall
20 cause the loan to be treated as a contribution,
21 subject to all relevant provisions of this chapter;



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

5 (7) The date of disposition of each durable asset, value
6 at the time of disposition, the method of disposition,
7 and the name and address of the person receiving the
8 asset.

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

12 **§11-Q Time for candidate committee to file preliminary,**
13 **final, and supplemental reports.** (a) The candidate and
14 treasurer of each candidate whose name will appear on the ballot
15 in the immediately succeeding election shall file preliminary,
16 final, and supplemental reports.

17 (1) The filing dates for preliminary reports are:
18 (A) July 31 of the election year;
19 (B) Ten calendar days prior to a primary, each
20 special, or each nonpartisan election; and
21 (C) Ten calendar days prior to a general election;
22 provided that this preliminary report does not



1 need to be filed by a candidate who is
2 unsuccessful in a primary, special, or
3 nonpartisan election or a candidate who is
4 elected to office in the primary, initial
5 special, or initial nonpartisan election.

6 Each preliminary report shall be current through June
7 30 for the report filed on July 31 and current through
8 the fifth calendar day before the filing deadline of
9 other preliminary reports.

10 (2) The filing date for the final primary report is twenty
11 calendar days after a primary, initial special, or
12 initial nonpartisan election. The report shall be
13 current through the day of the applicable election.

14 (3) The filing date for the final election period report
15 is thirty calendar days after a general, subsequent,
16 subsequent special, or subsequent nonpartisan
17 election. The report shall be current through the day
18 of the applicable election. The final election period
19 report shall be filed by a candidate who is
20 unsuccessful in a primary, initial special, or initial
21 nonpartisan election or a candidate who is elected to



1 office in the primary, initial special, or initial
2 nonpartisan election.

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

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

5 (B) July 31 after an election year.

6 The report shall be current through December 31 for
7 the report filed on January 31 and current through
8 June 30 for the report filed on July 31.

9 (b) A candidate with a deficit or surplus whose name will
10 not appear on the ballot in the immediately succeeding election
11 shall file a supplemental report every six months on January 31
12 and July 31 until:

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

15 (a); or

16 (2) The committee's registration is terminated as provided
17 in section 11-N.

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



1 (c) A candidate shall continue to file all reports until
2 the committee's registration is terminated as provided in
3 section 11-N.

4 **§11-R Noncandidate committee reports.** (a) The authorized
5 person in the case of a party, or treasurer in the case of a
6 noncandidate committee that is not a party, shall file
7 preliminary, final, and supplemental reports that disclose the
8 following information:

9 (1) The noncandidate committee's name and address;

10 (2) The cash on hand at the beginning of the reporting
11 period and election period;

12 (3) The reporting period and election period aggregate
13 total for each of the following categories:

14 (A) Contributions;

15 (B) Expenditures; and

16 (C) Other receipts;

17 (4) The cash on hand at the end of the reporting period;
18 and

19 (5) The surplus or deficit at the end of the reporting
20 period.

21 (b) Schedules filed with the reports shall include the
22 following additional information:



- 1 (1) The amount and date of deposit of each contribution
2 and the name, address, occupation, and employer of
3 each contributor making a contribution aggregating
4 more than \$100 during an election period, which was
5 not previously reported; provided that if all the
6 information is not on file, the contribution shall be
7 returned to the contributor within thirty days of
8 deposit;
- 9 (2) All expenditures, including the name and address of
10 each payee and the amount, date, and purpose of each
11 expenditure. Expenditures for consultants,
12 advertising agencies and similar firms, credit card
13 payments, salaries, and candidate reimbursements shall
14 be itemized to permit a reasonable person to determine
15 the ultimate intended recipient of the expenditure and
16 its purpose;
- 17 (3) The amount, date of deposit, and description of other
18 receipts and the name and address of the source of
19 each of the other receipts;
- 20 (4) A description of each durable asset, the date of
21 acquisition, value at the time of acquisition, and the



1 name and address of the vendor or contributor of the
2 asset; and

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

6 (c) No loan may be made or received by a noncandidate
7 committee.

8 (d) The authorized person in the case of a party, or
9 treasurer in the case of a committee shall file a late
10 contribution report as provided in section 11-U if the committee
11 receives late contributions from any person aggregating more
12 than \$500 or makes late contributions aggregating more than
13 \$500.

14 §11-S Time for noncandidate committee to file preliminary,
15 final, and supplemental reports. (a) The filing dates for
16 preliminary reports are:

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

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

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



1 (b) The filing date for the final primary report is twenty
2 calendar days after the primary, initial special, or initial
3 nonpartisan election. The report shall be current through the
4 day of the applicable election.

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

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

- 10 (1) January 31 after an election year; and
- 11 (2) July 31 after an election year.

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

15 (e) The authorized person in the case of a party, or
16 treasurer in the case of a committee, shall continue to file all
17 reports until the committee's registration is terminated as
18 provided in section 11-N.

19 **§11-T Reporting expenditures.** For the purposes of this
20 part, an expenditure is deemed to be made or incurred when the
21 services are rendered or the product is delivered. Services
22 rendered or products delivered for use during a reporting period



1 are deemed delivered or rendered during the period or periods of
2 use; provided that these expenditures shall be reasonably
3 allocated between periods in accordance with the time the
4 services or products are actually used.

5 **§11-U Late contributions; report.** (a) The candidate,
6 authorized person in the case of a noncandidate committee that
7 is a party, or treasurer in the case of a candidate committee or
8 other noncandidate committee, that within the period of fourteen
9 calendar days through four calendar days prior to any election,
10 makes contributions aggregating more than \$500, or receives
11 contributions from any person aggregating more than \$500, shall
12 file a late contribution report by means of the commission's
13 electronic filing system on or before the third calendar day
14 prior to the election.

15 (b) The late contribution report shall include the
16 following information:

17 (1) Name, address, occupation, and employer of the
18 contributor;

19 (2) Name of the candidate, candidate committee, or
20 noncandidate committee making or receiving the
21 contribution;

22 (3) The amount of the contribution;



1 (4) The contributor's aggregate contributions to the
2 candidate, candidate committee, or noncandidate
3 committee; and

4 (5) The purpose, if any, to which the contribution will be
5 applied.

6 (c) A late contribution report filed pursuant to this
7 section shall be in addition to any other report required to be
8 filed by this part.

9 §11-V Final election period report for candidate committee
10 or noncandidate committee receiving and expending \$1,000 or less
11 during the election period. (a) Any provision of law to the
12 contrary notwithstanding, a candidate committee or noncandidate
13 committee whose aggregate contributions and aggregate
14 expenditures for the election period total \$1,000 or less, shall
15 electronically file only a final election period report, and
16 need not file a preliminary and final primary report, a
17 preliminary and final general report, or a special election
18 report.

19 (b) Until the candidate committee's or noncandidate
20 committee's registration is terminated as provided in section
21 11-N, supplemental reports and other reports required by this
22 part shall be filed.



1 §11-W Failure to file report; filing a substantially
2 defective or deficient report. (a) True and accurate reports
3 shall be filed with the commission on or before the due date
4 specified in this part. The commission may assess a fine
5 against a candidate committee or noncandidate committee that is
6 required to file a report under this part if the report is not
7 filed by the due date or if the report is substantially
8 defective or deficient, as determined by the commission.

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

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

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

19 (c) Subsection (b) notwithstanding, if a candidate
20 committee does not file the second preliminary primary report or
21 the preliminary general report, or if a noncandidate committee
22 does not file the preliminary primary report or the preliminary



1 general report by the due date, the fine, if assessed, shall not
2 exceed \$300 per day; provided that:

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

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

8 (d) If the commission determines that a report is
9 substantially defective or deficient, the commission shall
10 notify the candidate's committee by first class mail that:

11 (1) The report is substantially defective or deficient;
12 and

13 (2) A fine may be assessed.

14 (e) If the corrected report is not filed with the
15 commission's electronic filing system on or before the
16 fourteenth day after the notice of deficiency has been mailed,
17 the fine, if assessed, for a substantially defective or
18 deficient report shall not exceed \$50 per day for the first
19 seven days, beginning with the fifteenth day after the notice
20 was sent, and shall not exceed \$200 per day thereafter; provided
21 that:



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

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

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

10 (1) File a report; or

11 (2) Correct a report within the time allowed by the
12 commission.

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

15 **§11-X Electioneering communications; statement of**
16 **information.** (a) Each person who makes a disbursement for
17 electioneering communications in an aggregate amount of more
18 than \$2,000 during any calendar year shall file with the
19 commission a statement of information within twenty-four hours
20 of each disclosure date provided in this section.

21 (b) Each statement of information shall contain the
22 following:



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



1 committee, the names and addresses of all persons who
2 contributed to the organization for the purpose of
3 publishing or broadcasting the electioneering
4 communications; and

5 (7) Whether or not any electioneering communication is
6 made in coordination, cooperation, or concert with or
7 at the request or suggestion of any candidate,
8 candidate committee, or noncandidate committee, or
9 agent of any candidate if any, and if so, the
10 identification of the candidate, a candidate committee
11 or a noncandidate committee, or agent involved.

12 (c) For the purposes of this section:

13 "Disclosure date" means, for every calendar year, the first
14 date by which a person has made disbursements during that same
15 year of more than \$2,000 in the aggregate for electioneering
16 communications, and the date of any subsequent disbursements by
17 that person for electioneering communications.

18 "Electioneering communication" means any advertisement that
19 is broadcast from a cable, satellite, television, or radio
20 broadcast station; published in any periodical or newspaper; or
21 sent by mail at a bulk rate, and that:

22 (1) Refers to a clearly identifiable candidate;



1 (2) Is made, or scheduled to be made, either within thirty
2 days prior to a primary or initial special election or
3 within sixty days prior to a general or special
4 election; and

5 (3) Is not susceptible to any reasonable interpretation
6 other than as an appeal to vote for or against a
7 specific candidate.

8 "Electioneering communication" shall not include communications:

9 (1) In a news story or editorial disseminated by any
10 broadcast station or publisher of periodicals or
11 newspapers, unless the facilities are owned or
12 controlled by any candidate, candidate committee, or
13 noncandidate committee;

14 (2) That constitute expenditures by the disbursing
15 organization;

16 (3) In house bulletins; or

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

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



1 **§11-Y Fundraiser; notice of intent.** (a) No fundraiser
2 shall be held unless a notice of intent to hold the fundraiser
3 is filed setting forth the name and address of the person in
4 charge, the price per person, the date, hour, and place of the
5 fundraiser, and the method thereof.

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

8 (c) As used in this section, "fundraiser" means any
9 function held for the benefit of a candidate, candidate
10 committee, or noncandidate committee that is intended or
11 designed, directly or indirectly, to raise contributions for
12 which the price or suggested contribution for attending the
13 function is more than \$25 per person.

14 **§11-Z Reporting deadline.** When any reporting deadline
15 falls on a Saturday, Sunday, or holiday designated in section 8-
16 1, the reporting deadline shall be the next succeeding day that
17 is not a Saturday, Sunday, or holiday.

18 **§11-AA Sale or use of information.** No information in the
19 reports or copies of the reports filed with the commission shall
20 be sold or used by any person for the purpose of soliciting
21 contributions or for any commercial purpose.



1 E. Contributions; Prohibitions; Limits

2 §11-BB Contributions, generally. (a) Monetary
3 contributions and other campaign funds shall be promptly
4 deposited in a depository institution, as defined by section
5 412:1-109, duly authorized to do business in the state,
6 including a bank, savings bank, savings and loan association,
7 depository financial services loan company, credit union, intra-
8 Pacific bank, or similar financial institution, the deposits or
9 accounts of which are insured by the Federal Deposit Insurance
10 Corporation, or the National Credit Union Administration in the
11 name of the candidate, candidate committee, or noncandidate
12 committee, whichever is applicable.

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

17 (c) Each candidate committee or noncandidate committee
18 shall disclose the original source of all earmarked funds, the
19 ultimate recipient of the earmarked funds, and the fact that the
20 funds are earmarked.

21 §11-CC False name contributions prohibited. (a) No
22 person shall make a contribution to any candidate or a



1 candidate committee or noncandidate committee, in any name other
2 than that of the person who owns the money, property, or
3 service.

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

7 **§11-DD Anonymous contributions prohibited.** (a) Except as
8 provided in subsection (d), no person shall make an anonymous
9 contribution to any candidate, candidate committee, or
10 noncandidate committee.

11 (b) A candidate, candidate committee, or noncandidate
12 committee shall not knowingly receive, accept, or retain an
13 anonymous contribution, or report such contribution as an
14 anonymous contribution, except as provided in this section.

15 (c) An anonymous contribution shall not be used or
16 expended by the candidate, candidate committee, or noncandidate
17 committee, but shall be returned to the contributor. If the
18 contributor cannot be identified, the contribution shall escheat
19 to the Hawaii election campaign fund.

20 (d) This section shall not apply to amounts that aggregate
21 to less than \$500 that are received from ten or more persons at
22 the same political function. The receipt of these contributions



1 shall be disclosed in a report filed pursuant to section 11-P
2 and 11-R.

3 **§11-EE Fundraising on state or county property prohibited.**

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

8 (b) This prohibition shall not apply to any government
9 facility that permits use by nongovernmental organizations for a
10 fee or with reservations; provided the governmental facility's
11 use rules do not prohibit political activities on the premises.
12 Government facilities that permit use for political activities
13 shall be available to a candidate, candidate committee, or
14 noncandidate committee, for fundraising activities pursuant to
15 the same terms and conditions that would otherwise apply to use
16 by nongovernmental organizations.

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

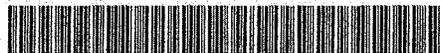
19 **§11-FF Contributions by state and county contractors**
20 **prohibited.** (a) It shall be unlawful for any person exempt from
21 competitive solicitation pursuant to chapters 102, 103, 103D,
22 and 103F who enters into any contract with the State, any of its



1 counties, or any department or agency thereof either for the
2 rendition of personal services, the buying of property, or
3 furnishing of any material, supplies, or equipment to the State,
4 any of its counties, department or agency thereof, or for
5 selling any land or building to the State, any of its counties,
6 or any department or agency thereof, if payment for the
7 performance of the contract or payment for material, supplies,
8 equipment, land, property, or building is to be made in whole or
9 in part from funds appropriated by the legislative body, at any
10 time between the execution of the contract through the
11 completion of the contract, to:

12 (1) Directly or indirectly make any contribution, or
13 promise expressly or impliedly to make any
14 contribution to any candidate committee or
15 noncandidate committee, or to any candidate or to any
16 person for any political purpose or use; or
17 (2) Knowingly solicit any contribution from any person for
18 any purpose during any period.

19 (b) Except as provided in subsection (a), this section
20 does not prohibit or make unlawful the establishment or
21 administration of, or the solicitation of contributions to, any
22 noncandidate committee by any person for the purpose of



1 influencing the nomination for election, or the election of any
2 person to office; provided that the commission shall by rule
3 establish contribution limits for limited liability companies as
4 defined in section 428-101, limited liability partnerships as
5 defined in section 425-101, and limited liability limited
6 partnerships as defined in section 425E-102. Sole proprietors
7 subject to this section shall comply with applicable campaign
8 contribution limits in section 11-HH(a).

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-GG 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 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-HH 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-II 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-JJ 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-KK 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-LL 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.

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-MM 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-NN Other contributions and expenditures. (a)

6 Expenditures or disbursements for electioneering communications
7 as defined in section 11-X, 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-X, 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-MMM.

8 **§11-00 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 sections 11-HH, 11-II, 11-JJ, and 11-KK shall return
12 any 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 or a candidate or noncandidate committee
17 who complies with this section prior to the initiation of
18 administrative action shall not be subject to any fine under
19 section 11-HHH.

20



1 F. Loans

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

5 (1) The candidate's own funds;

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

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

16 (4) Persons other than immediate family of the candidate
17 in an aggregate amount not to exceed \$10,000 during an
18 election period; provided that:

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



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

3 (B) If a loan from persons other than immediate
4 family members 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 the 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-QQ Reporting loan; written loan agreement. (a) Every
5 loan shall be reported as provided in section 11-P.

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

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-P.

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

13 **G. Expenditures**

14 §11-SS 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 committee for the candidate's personal
7 use unless the personal use is de minimis;

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

18 (4) To make donations to any public school or public
19 library; provided that in any election period, the
20 total amount of all contributions shall be no more
21 than twice the maximum amount that one person may
22 contribute to that candidate pursuant to section 11-



1 HH; provided further that any donation under this
2 paragraph shall not be aggregated with or imputed
3 toward any limitation on donations pursuant to
4 paragraph (3);

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

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

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

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

18 **§11-TT Prohibited uses of campaign funds.** Campaign funds
19 shall not be used:

20 (1) To support the campaigns of candidates other than the
21 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-UU Exceptions. Notwithstanding sections 11-SS and 11-

6 TT:

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-VV 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-SS 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 lost in an election and the candidate
12 committee of such a candidate may use campaign funds as provided
13 in section 11-SS 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 registration with the
19 commission as provided in section 11-N.

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-SS upon registration for the election
2 pursuant to section 11-I.

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-WW 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.



1 (b) The fine for violation of this section, if assessed by
2 the commission, shall not exceed \$25 for each advertisement that
3 lacks the information required by this section, and shall not
4 exceed an aggregate amount of \$5,000.

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

10 I. Enforcement

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

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

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



1 (d) Upon application of the commission, obedience to the
2 subpoena shall be enforced by the circuit court in the county in
3 which the person subpoenaed resides or is found, in the same
4 manner as a subpoena issued by a circuit court.

5 **§11-ZZ Filing of complaint.** (a) A person alleging
6 violations of this part shall file a complaint with the
7 commission.

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

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

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

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



1 §11-BBB Initial determination by the commission. The
2 commission shall promptly determine, without regard to chapter
3 91, to:

- 4 (1) Summarily dismiss the complaint;
- 5 (2) Investigate further;
- 6 (3) Make a preliminary determination; or
- 7 (4) Refer the complaint to an appropriate prosecuting
8 attorney for prosecution under section 11-III.

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

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



1 **§11-DDD Waiver of further proceedings.** The commission may
2 waive further proceedings due to action the respondent takes to
3 remedy or correct the alleged violation, including the payment
4 of any administrative fine. The commission shall make the
5 remedial or corrective action taken by the respondent, the
6 commission's decision in light of the action to waive further
7 proceedings, and the commission's justification for its
8 decision, a part of the public record.

9 **§11-EEE Contested case hearing.** (a) A contested case
10 hearing shall be conducted pursuant to chapter 91 and any rules
11 adopted by the commission, except as provided in this section.

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

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

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



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

3 (f) Any person who appears before the commission shall
4 have all of the rights, privileges, and responsibilities of a
5 witness appearing before the courts of this State. All
6 witnesses summoned before the commission or hearings officer
7 shall receive reimbursements as paid in like circumstances in
8 the courts of this State. Any person whose name is mentioned
9 during a proceeding before the commission and who may be
10 adversely affected thereby, may appear or file a written
11 statement for incorporation into the record of the proceeding.

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

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



1 **§11-FFF Dismissal.** The complaint shall be dismissed if
2 the commission makes a final determination that there is no
3 violation of this part.

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

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

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

- 20 (1) If an individual, an amount not to exceed \$1,000 for
21 each occurrence or an amount equivalent to three times



1 the amount of an unlawful contribution or expenditure;
2 or

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

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

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

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

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



1 requiring the person to comply with the commission's order.
2 Failure to obey such a court order shall be punished as
3 contempt.

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

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

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

11 (h) The provisions of this section shall not apply to any
12 person who, prior to the commencement of proceedings under this
13 section, has paid or agreed to pay the fines prescribed by
14 section 11-W and 11-WW(b).

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



1 §11-JJJ Criminal prosecution. (a) Any person who
2 recklessly, knowingly, or intentionally violates any provision
3 of this part shall be guilty of a misdemeanor.

4 (b) Any person who knowingly or intentionally falsifies
5 any report required by this part with the intent to circumvent
6 the law or deceive the commission or who violates section 11-CC
7 or 11-DD shall be guilty of a class C felony. A person charged
8 with a class C felony shall not be eligible for a deferred
9 acceptance of guilty plea or nolo contendere plea under chapter
10 853.

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

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

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



1 (2) In the case of state offices, parties, or issues, the
2 attorney general or the prosecuting attorney for the
3 city and county of Honolulu shall prosecute any
4 violation; and

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

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

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

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

17 (g) This section shall not apply to any person who, prior
18 to the commencement of proceedings under this section, has paid
19 or agreed to pay the fines prescribed by sections 11-W and
20 11-WW(b).

21



1 J. Partial Public Financing

2 §11-KKK Hawaii election campaign fund; creation. (a) The
3 Hawaii election campaign fund is created as a trust fund within
4 the state treasury.

5 (b) The fund shall consist of:

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

9 (2) Any general fund appropriations; and

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

11 (c) Moneys in this fund shall be paid to candidates by the
12 comptroller as prescribed in section 11-UUU and may be used for
13 the commission's operating expenses, including staff salaries
14 and fringe benefits.

15 §11-LLL Depletion of fund. (a) The commission shall be
16 under no obligation to provide moneys to candidates if, in the
17 partial public funding program or comprehensive public funding
18 for elections to the county of Hawaii council, moneys in that
19 fund are near depletion.

20 (b) For purpose of the partial funding program, if the
21 Hawaii election campaign fund is close to depletion as
22 determined by the commission, the commission shall determine the



1 amounts available to eligible candidates based on their order of
2 eligibility in qualifying for partial public funds, as
3 determined by the date of filing of an application for public
4 funds with the commission pursuant to section 11-TTT; provided
5 that the application has been accepted by the commission.

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

11 **§11-MMM Voluntary expenditure limits; filing affidavit.**

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

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



1 (c) The affidavit shall remain effective until the
2 termination of the candidate committee or the opening of filing
3 of nomination papers for the next succeeding election, whichever
4 occurs first. An affidavit filed under this section may not be
5 rescinded.

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

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



1 **§11-NNN Tax deduction for qualifying contributions.** (a)

2 An individual resident of Hawaii may claim a state income tax
3 deduction pursuant to section 235-7(g)(2), for contributions to
4 a candidate who files an affidavit pursuant to section 11-MMM
5 and does not exceed the expenditure limit. Cancelled checks or
6 copies of the same shall be considered adequate receipt forms to
7 attach to the tax form to claim the credit.

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

10 (c) If a candidate has not filed the affidavit pursuant to
11 section 11-MMM, the candidate shall inform all contributors in
12 writing immediately upon receipt of the contribution that they
13 are not entitled to a tax deduction for their contributions to
14 the candidate. The director of taxation shall not allow any
15 contributor to take a deduction, pursuant to section
16 235-7(g)(2), for any contribution to a candidate for a statewide
17 or county office who has not filed the affidavit pursuant to
18 section 11-MMM.

19 **§11-000 Maximum amount of public funds available to**
20 **candidate.** (a) The maximum amount of public funds available in
21 each election to a candidate for the office of governor,
22 lieutenant governor, or mayor shall not exceed ten per cent of



1 the expenditure limit established in section 11-MMM(d) for each
2 election.

3 (b) The maximum amount of public funds available in each
4 election to a candidate for the office of state senator, state
5 representative, county council member, and prosecuting attorney
6 shall not exceed fifteen per cent of the expenditure limit
7 established in section 11-MMM(d) for each election.

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

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

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



1 **§11-PPP Candidate exceeds voluntary expenditure limit.** A
2 candidate who files the affidavit agreeing to limit expenditures
3 and who exceeds the expenditure limit for that election shall:

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

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

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

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

19 **§11-RRR Eligibility requirements for public funds.** In
20 order to be eligible to receive public funds for an election, a
21 candidate shall certify that the candidate will meet all the
22 following requirements:



- 1 (1) The candidate and any candidate committee authorized
2 by the candidate shall not incur campaign expenses in
3 excess of the expenditure limitations imposed by
4 section 11-209;
- 5 (2) The candidate has qualified to be on the election
6 ballot in a primary or general election;
- 7 (3) The candidate has filed a statement of intent to seek
8 qualifying contributions. A contribution received
9 before the filing of a statement of intent to seek
10 public funds shall not be considered a qualifying
11 contribution;
- 12 (4) The candidate or committee authorized by the candidate
13 has received the qualifying sum of private
14 contributions for the office sought by the candidate
15 as set forth in section 11-219;
- 16 (5) The aggregate of contributions certified with respect
17 to any person under paragraph (4) does not exceed
18 \$100;
- 19 (6) The candidate agrees to obtain and furnish any
20 evidence relating to expenditures that the commission
21 may request;



1 (7) The candidate agrees to keep and furnish records,
2 books, and other information that the commission may
3 request;

4 (8) The candidate agrees to an audit and examination by
5 the commission pursuant to section 11-XXX and to pay
6 any amounts required to be paid pursuant to that
7 section; and

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

19 §11-SSS Minimum qualifying contribution amounts;
20 qualifying contribution statement. (a) As a condition of
21 receiving public funds for a primary or general election, a
22 candidate shall not be unopposed in any election for which

1 public funds are sought, shall have filed an affidavit with the
2 commission pursuant to section 11-MMM to voluntarily limit the
3 candidate's campaign expenditures, and shall be in receipt of
4 the following sum of qualifying contributions from individual
5 residents of Hawaii:

- 6 (1) For the office of governor - qualifying contributions
7 that in the aggregate, exceed \$100,000;
- 8 (2) For the office of lieutenant governor - qualifying
9 contributions that in the aggregate, exceed \$50,000;
- 10 (3) For the office of mayor for each respective county:
- 11 (A) County of Honolulu - qualifying contributions
12 that in the aggregate, exceed \$50,000;
- 13 (B) County of Hawaii - qualifying contributions that
14 in the aggregate, exceed \$15,000;
- 15 (C) County of Maui - qualifying contributions that in
16 the aggregate, exceed \$10,000;
- 17 (D) County of Kauai - qualifying contributions that
18 in the aggregate, exceed \$5,000; and
- 19 (4) For the office of prosecuting attorney for each
20 respective county:
- 21 (A) County of Honolulu - qualifying contributions
22 that in the aggregate, exceed \$30,000;



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



- 1 (9) For all other offices, qualifying contributions that,
2 in the aggregate, exceed \$500.
- 3 (b) A candidate shall obtain the minimum qualifying
4 contribution amount set forth in subsection (a), once for the
5 election period.
- 6 (1) If the candidate obtains the minimum qualifying
7 contribution amount, the candidate is eligible to
8 receive:
- 9 (A) The minimum payment in an amount equal to the
10 minimum qualifying contribution amounts; and
- 11 (B) Payments of \$1 for each \$1 of qualifying
12 contributions in excess of the minimum qualifying
13 contribution amounts.
- 14 (2) A candidate shall have at least one other qualified
15 candidate as an opponent for the primary or general
16 election to receive public funds for that election.
- 17 (c) The candidate shall not receive more than the maximum
18 amount of public funds available to a candidate pursuant to
19 section 11-000; provided that the candidate shall not receive
20 public funds for a primary election if the candidate does not
21 obtain the minimum qualifying contribution amounts before the
22 date of the primary election.



1 §11-TTT Application for public funds. (a) Each
2 application for public funds shall be signed by the candidate
3 and notarized, and accompanied by the qualifying campaign
4 contribution statement or statements.

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

8 (c) Each candidate in receipt of the qualifying sum of
9 contributions established for the office that the candidate
10 seeks may apply to the commission for public funding after the
11 candidate has become a candidate in a primary or general
12 election.

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

21 (b) The commission shall make additional determinations
22 within fourteen days after receiving a complete application and



1 supplemental statement of qualifying contributions from a
2 candidate.

3 (c) All determinations made by the commission under this
4 section are final and conclusive, except to the extent they are
5 subject to examination and audit by the commission under section
6 11-XXX.

7 §11-VVV Use of public funds. (a) Public funds shall be
8 deposited in a depository institution, as defined in section
9 412:1-109, duly authorized to do business in the state, such as
10 a bank, savings bank, savings and loan association, depository
11 financial services loan company, credit union, intra-Pacific
12 bank, or similar financial institution, the deposits or accounts
13 of which are insured by the Federal Deposit Insurance
14 Corporation, or the National Credit Union Administration.

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

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

18 (1) Defray expenditures of the candidate or all candidate
19 committees authorized by the candidate; and

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



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

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

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

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

19 §11-XXX Post-election examination and audit; return of
20 funds. (a) The commission shall examine and audit the public
21 funds received by all candidates, qualifying contributions, and



1 the expenditures made by all candidates within sixty days after
2 each general election.

3 (b) The commission shall adopt rules, pursuant to chapter
4 91, prior to the payment of public money, regarding expenditures
5 which qualify under section 11-VVV.

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

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

18 **§11-YYY Report and recommendation.** In January of each
19 year, the commission shall submit to the legislature:

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



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

3 PART III

4 SECTION 3. Chapter 11, part XII, subpart B, Hawaii Revised
5 Statutes, is repealed.

6 PART IV

7 SECTION 4. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun, before its effective date.

10 SECTION 5. If any provision of this Act, or the
11 application thereof to any person or circumstance is held
12 invalid, the invalidity shall not affect other provisions or
13 applications of the Act, which can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 6. In codifying the new sections added by part II
17 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.

20 SECTION 7. This Act shall take effect on January 1, 2010.

