A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

PART I

SECTION 1. The legislature finds that Act 136, Session Laws of Hawaii 2019, required all elections statewide to be conducted by mail beginning with the 2020 primary election. The purpose of this part is to make various housekeeping amendments to clarify and improve the administration of elections by mail in Hawaii.

SECTION 2. Section 11-1, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

"Ballot summary" means a complete record of ballot selections that is verified by the voter.

"Precinct" means the smallest political subdivision established by law."

2. By amending the definition of "ballot" to read:
"Ballot" means a ballot, including an absentee ballot, that is a written or printed, or partly written and partly printed, paper or papers containing the names of persons to be voted for, the office to be filled, and the questions or issues to be voted on. "Ballot" includes [a]:

(1) A ballot summary that is produced by a voter using a web-based ballot or similarly accessible ballot;

(2) A voter verifiable paper audit trail in the event there is a discrepancy between a voting machine's electronic record of the voted ballot and the voter verifiable paper audit trail; and

(3) A ballot used in an election by mail pursuant to part VIIA, including a ballot approved for electronic transmission.

A ballot may consist of one or more cards or pieces of paper, or one face of a card or piece of paper, or a portion of the face of a card or piece of paper, depending on the number of offices, candidates to be elected thereto, questions or issues to be voted on, and the voting system in use."

3. By amending the definition of "district" to read:
"District" means, unless otherwise specified, the district of political representation [with the fewest eligible voters in a particular election.] associated with a state representative.

SECTION 3. Section 11-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any person qualified to and desiring to register as a voter in any county shall make and subscribe to an application in the form of an affidavit.

The affidavit shall contain the following information:

1. Name;
2. The applicant's Hawaii driver's license number or Hawaii state identification card number; provided that:
   A. If no driver's license or identification card has been issued to the applicant, the last four digits of the applicant's social security number; and
   B. If no social security number has been issued to the applicant, an election official or county clerk shall assign the applicant a unique identification number for voter registration.
purposes and enroll the applicant in the State's computerized voter registration list, if any;

(3) Date of birth;
(4) Residence, including mailing address;
(5) That the residence stated in the affidavit is not simply because of the person's presence in the State, but that the residence was acquired with the intent to make Hawaii the person's legal residence with all the accompanying obligations therein; and
(6) That the person is a citizen.

[An application to register to vote shall include a space to request a permanent absentee ballot.]

SECTION 4. Section 11-15.2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (c) to read:

"(c) The registration clerk shall process applications for any person not registered to vote who submits a signed affidavit in accordance with section 11-15, which shall include a sworn affirmation:

(1) Of the person's qualification to vote;"
(2) Acknowledging that the person has not voted and will not attempt to vote again in that election, and has not cast and will not cast any absentee ballot pursuant to chapter 15 in that election; and

(3) Acknowledging that providing false information may result in a class C felony, punishable by a fine not exceeding [$1,000] $10,000 or imprisonment not exceeding five years, or both."

2. By amending subsection (g) to read:

"(g) The clerk of each county shall add persons who properly register under this section to the respective general county register. Within thirty days of registration, the clerk shall mail to the person a notice including the person's name, current street address, district[7] and precinct, and date of registration. A notice mailed pursuant to this subsection shall serve as prima facie evidence that the person is a registered voter as of the date of registration."

SECTION 5. Section 11-17, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The clerk shall also identify or remove the name of any registered voter if the clerk, after mailing a notice or
other correspondence, properly addressed, with postage prepaid, receives the notice or other correspondence as return mail with a postal notation that the notice or other correspondence was not deliverable. On election day, any person identified or removed shall have the person's name corrected or restored in the register and shall be allowed to vote if the person completes an affidavit or other form prescribed by the chief election officer affirming that the person:

(1) Claims the person's legal residence at the address listed on the register;

(2) Changed the person's legal residence after the closing of the register for that election; or

(3) Moved to a new residence within the same [district] precinct as the person's residence as listed on the register."

SECTION 6. Section 11-21, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) Any person whose name appears on the registered voters list whose residence has changed since the last election, and whom the clerk has not transferred under section 11-20, may apply on a form prescribed by the chief election officer on the
day of the election for transfer of registration to the
[district] precinct of the new residence. Any person so
transferring voter registration shall be immediately added to
the register of the new [district] precinct.
(d) Where a person was incorrectly placed on a list of
voters of a [district] precinct in which the person does not
actually reside, the person may correct the registration."
SECTION 7. Section 11-22, Hawaii Revised Statutes, is
amended by amending subsection (a) to read as follows:
"(a) The clerk shall correct the register if at any time
it shall be manifest to the clerk that the name of a person
registered has been accidentally misspelled, or that the person
has been misnamed therein, or that the person has been
accidentally registered under the wrong [district] precinct, or
that the person was accidentally removed pursuant to section
11-17(a), or that the name of the person should be corrected or
restored pursuant to section 11-17(b)."
SECTION 8. Section 11-25, Hawaii Revised Statutes, is
amended by amending subsection (a) to read as follows:
"(a) Any registered voter may challenge the right of a
person to be or to remain registered as a voter in any precinct
for any cause not previously decided by the board of
registration or the supreme court in respect to the same person.
The challenge shall be in writing, setting forth the grounds
upon which it is based, and be signed by the person making the
challenge. The challenge shall be delivered to the clerk who
shall immediately serve notice thereof on the person challenged.
The clerk shall, as soon as possible, investigate and rule on
the challenge."

SECTION 9. Section 11-26, Hawaii Revised Statutes, is
amended as follows:

1. By amending subsection (a) to read:

"(a) In cases where the clerk, or [precinct] voter service
center officials, rules on a challenge on election day, the
person ruled against may appeal from the ruling to the board of
registration of the person's county for review under part III.
The appeal shall be brought before the challenger and challenged
party leave the [polling place.] voter service center. If an
appeal is brought, both the challenger and the challenged voter
may be parties to the appeal."

2. By amending subsection (c) to read:
"(c) If the appeal is sustained, the board shall immediately certify that finding to the clerk, who shall thereupon alter the register to correspond to the findings of the board, and when necessary, the clerk shall notify the [precinct] voter service center officials of the change in the register."

SECTION 10. Section 11-92.1, Hawaii Revised Statutes, is amended to read as follows:

"§11-92.1 Election proclamation; establishment of a new precinct; voter service centers and places of deposit; changes to [district] precinct boundaries. (a) The chief election officer shall issue a proclamation [listing]:

(1) Listing all voter service centers and places of deposit as may have been determined by the clerk as of the proclamation date[ ]; and

(2) Whenever a new precinct is established in any representative district.

The clerk shall make arrangements for the rental or erection of suitable shelter for the establishment of a voter service center whenever public buildings are not available and shall cause these voter service centers to be equipped with the necessary
facilities for lighting, ventilation, and equipment needed for elections on any island. This proclamation may be issued jointly with the proclamation required in section 11-91.

(b) No change shall be made in the boundaries of any [district precinct] later than 4:30 p.m. on the tenth day before the close of filing for an election.

(c) Notwithstanding subsection (a), and pursuant to section 15-2.5, the clerk is not required to establish voter service centers for [districts] precincts affected by natural disasters, as provided in section 15-2.5."

SECTION 11. Section 11-92.3, Hawaii Revised Statutes, is amended to read as follows:

"§11-92.3 Natural disasters; postponement; consolidation of [districts] precincts; special elections. (a) In the event of a flood, tsunami, earthquake, volcanic eruption, high wind, or other natural disaster, occurring before an election where the extent of damage caused is such that the ability of voters, in any precinct, district, or county, to exercise their right to vote is substantially impaired, the chief election officer or clerk in the case of county elections may postpone the conducting of an election in the affected [area] precinct for no
more than twenty-one days; provided that any postponement shall not affect the conduct of the election, tabulation, or distribution of results for those precincts, districts, or counties not designated for postponement. The chief election officer or clerk in the case of county elections shall give notice of the postponement by whatever possible news or broadcast media are available.

(b) In the event the chief election officer or the clerk in a county election determines that the number of candidates or issues on the ballot in a special, special primary, or special general election does not require the full number of established precincts, the precincts may be consolidated for the purposes of the special, special primary, or special general election into a small number of special, special primary, or special general election precincts.

A special, special primary, or special general election precinct shall be considered the same as an established precinct for all purposes. No later than 4:30 p.m. on the tenth day before the special, special primary, or special general election, the chief election officer or the
clerk shall give public notice, in the area in which the
special, special primary, or special general election is to be
held, of the special, special primary, or special general
election precincts."

SECTION 12. Section 11-101, Hawaii Revised Statutes, is
amended to read as follows:

"[¶]$11-101[¶] Elections eligible to be conducted by mail.
Beginning with the 2020 primary election, all elections shall be
conducted by mail in accordance with this title. A voter in an
election conducted by mail shall not be precluded from voting by
absentee ballot under chapters 15 or 15D if the voter complies
with the applicable requirements."

SECTION 13. Section 11-102, Hawaii Revised Statutes, is
amended by amending subsection (b) to read as follows:

"(b) To the extent practicable, the clerk shall mail a
ballot package by non-forwardable mail to each registered voter
in the county so as to enable voters to receive the ballot
package approximately eighteen days before the election. The
clerk shall continue mailing ballot packages to voters who
update their voter registration address no later than [fourteen]
seven days before the date of the election. The clerk may
continue to mail ballots to those who have updated their voter registration address after the seventh day, if:

(1) The clerk believes there is sufficient time for the voter to return the ballot by the applicable deadline;

or

(2) Another statute provides for the transmittal of the ballot during that time frame.

In determining the initial mailing date of the ballot packages, the clerk shall consider the mailing place of origin and the most recent postal service delivery standards. The clerk shall not mail a ballot package to any voter in the county register who is identified as having an outdated or non-deliverable mailing address. Nothing in this part shall be construed to change the responsibilities of the clerk or chief election officer under chapter 15 with respect to voters requesting to vote by absentee ballot or chapter 15D with respect to uniform military and overseas voters."

SECTION 14. Section 11-104, Hawaii Revised Statutes, is amended to read as follows:

"[§11-104] Ballot instructions; ballot return. (a) After a voter receives a ballot package, the voter shall comply
with the instructions included in the ballot package in order to
cast a valid vote. The instructions shall include directions for:

(1) Marking the ballot;
(2) Inserting the marked ballot in the secrecy envelope or
    secrecy sleeve;
(3) Inserting the secrecy envelope or secrecy sleeve with
    the marked ballot in the return identification
    envelope; and
(4) Signing the affirmation on the return identification
    envelope before mailing or delivering the return
    identification envelope containing the secrecy
    envelope or secrecy sleeve with the marked ballot.

The affirmation shall consist of a statement to be
subscribed to by the voter that affirms the fact that
the voter is the person voting and that the voter's
employer or agent of the employer, agent of the
voter's labor union, or any candidate listed on the
ballot did not assist the voter, as described in
section 11-139, along with the instruction that the
voter's ballot will be valid only if the affirmation
statement is signed.

(b) The instructions shall include information on election
fraud and voter fraud, as provided in sections 19-3(5) and
19-3.5, and notice that violation of either section may subject
the voter, upon conviction, to imprisonment, a fine, or both.

(c) To cast a valid ballot, the voter shall return the
return identification envelope containing the secrecy envelope
or secrecy sleeve with the marked ballot[+] in any manner:

(1) [By mail—se] So that the return identification
envelope is received [at the office of] by the clerk
or the clerk's designee no later than the closing time
[provided] on election day in accordance with section
11-131 [on the date of the election]; provided that
anyone who is standing in line at 7:00 p.m. on the
date of the election with the intent of returning a
ballot shall be permitted to do so;

(2) [By personal delivery at] To any place of deposit no
later than 7:00 p.m. on the date of the election;
provided that [any voter] anyone who is standing in
line at a place of deposit at 7:00 p.m. on the date of
the election with the intent of returning a ballot

[and casting a vote] shall be [allowed to vote,]

permitted to do so; or

(3) [By personal delivery to] To any voter service center

no later than the closing time provided in section

11-131 on the date of the election; provided that [any

voter] anyone who is standing in line at a voter

service center at the closing time provided in section

11-131 on the date of the election with the intent of

returning a ballot [and casting a vote] shall be

[allowed to vote,] permitted to do so.

(d) Once a voter has returned a return identification

envelope containing the secrecy envelope or secrecy sleeve with

the marked ballot, that voter's ballot shall be deemed cast and

may not be recast in the election.

(e) Before opening the return identification envelopes and

counting the ballots, the return identification envelopes shall

be checked for the following:

(1) Signature on the affirmation statement;
(2) Whether the signature corresponds with the absentee request or register as prescribed in the rules adopted by the chief election officer; and

(3) Whether the person is a registered voter and has complied with the requirements of sections 11-15 and 11-16."

SECTION 15. Section 11-105, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) [Upon receipt of a completed replacement ballot application form, the] The clerk shall:

(1) Verify the registration of the voter and ensure that another ballot has not been returned by the voter;

(2) Record that the voter has requested a replacement ballot;

(3) Mark the return identification envelope as containing a replacement ballot; and

(4) Issue the replacement ballot package by mail or make the ballot package available for pick-up by the voter.

(c) Voters who obtain a replacement ballot shall return the return identification envelope containing the secrecy
envelope or secrecy sleeve with the marked replacement ballot in any manner:

1. [By mail] So that the return identification envelope is received by the clerk or the clerk's designee no later than the closing time on election day in accordance with section 11-131 on the date of the election; provided that anyone who is standing in line at 7:00 p.m. on the date of the election with the intent of returning a ballot shall be permitted to do so;

2. [By personal delivery] To any place of deposit no later than 7:00 p.m. on the date of the election; provided that anyone who is standing in line at a place of deposit at 7:00 p.m. on the date of the election with the intent of returning a ballot shall be permitted to do so; or

3. [By personal delivery] To any voter service center no later than the closing time provided in section 11-131 on the date of the election; provided that anyone who is standing in line at a voter
service center at the closing time provided in section 11-131 on the date of the election with the intent of returning a ballot [and casting a vote] shall be permitted to do so."

SECTION 16. Section 11-106, Hawaii Revised Statutes, is amended to read as follows:

"§11-106 Deficient return identification envelopes. If:

(1) A return identification envelope is returned with an unsigned affirmation;

(2) The affirmation signature does not match a reference signature image; or

(3) A return identification envelope contains another condition that would not allow the counting of the ballot,

the clerk shall make an attempt to notify the voter by first class mail, telephone, or electronic mail to inform the voter of the procedure to correct the deficiency. The voter shall have five business days after the date of the election to cure the deficiency. The chief election officer may adopt rules regarding requirements and procedures for correcting deficient
return identification envelopes. The counting of ballots and disclosure of subsequent election results may continue during the time period permitted to cure a deficiency under this section. The clerk's inability to contact voters under this section shall not be grounds for a contest for cause under section 11-172. This section shall apply to all return identification envelopes, including ballots using the provisions of section 11-107 or chapters 15 or 15D."

SECTION 17. Section 11-107, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) If a ballot package is not received by a voter by the fifth day before the date of the election or a voter otherwise requires a replacement ballot within five days of an election, the voter may request that a ballot be forwarded by electronic transmission; provided that a voter with special needs may request that a ballot be forwarded by electronic transmission at any time, but no earlier than the date that the voter's initial ballot package was or would have been transmitted. Upon receipt of such a request and confirmation that [proper application was made], the voter has not already voted, the clerk may transmit the appropriate ballot, together with a form
containing the affirmations, information, and a waiver of the
right to secrecy under section 11-137.

(b) The voter may return the completed replacement ballot
and executed forms:

(1) By electronic transmission so that the completed
replacement ballot and executed forms are received [at
the office of] by the clerk or the clerk's designee no
later than the closing time provided in section 11-131
on the date of the election;

(2) [By mail] In any manner so that the completed
replacement ballot and executed forms are received [at
the office of] by the clerk or the clerk's designee no
later than the closing time provided in section 11-131
on the date of the election; provided that anyone who
is standing in line at 7:00 p.m. on the date of the
election with the intent of returning a ballot shall
be permitted to do so;

(3) [By personal delivery] In any manner to any place of
deposit no later than 7:00 p.m. on the date of the
election; provided that [any voter] anyone who is
standing in line at a place of deposit at 7:00 p.m. on
the date of the election with the intent of returning
a ballot [and casting a vote] shall be [allowed to
vote] permitted to do so; or
(4) [By personal delivery] In any manner to a voter
service center no later than the closing time provided
in section 11-131 on the date of the election;
provided that [any voter] anyone who is standing in
line at a voter service center at the closing time
provided in section 11-131 on the date of the election
with the intent of returning a ballot [and casting a
vote] shall be [allowed to vote] permitted to do so."

SECTION 18. Section 11-108, Hawaii Revised Statutes, is
amended by amending subsection (c) to read as follows:
"(c) Any ballot the validity of which cannot be
established upon receipt shall be retained by the clerk and
shall not be commingled with ballots for which validity has been
established until the validity of the ballot in question can be
verified by the clerk. No ballot shall be included in an
initial tabulation until the clerk has determined its validity.
The clerk shall make reasonable efforts to determine the
validity of ballots within seven days following an election day.
No ballots shall be validated beyond the seventh day following an election."

SECTION 19. Section 11-109, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) Voter service centers shall be established [at the office of the clerk, and may be established at additional locations within a county as may be designated by a clerk] by the clerks to service the particular needs of [a] each county's voters.

(b) [Voter] In each county, a voter service [centers] center shall be open from the tenth business day preceding the day of the election during regular business hours until the time provided in section 11-131 on the date of the election and at the same times statewide[ ]; provided that beginning with the 2022 primary election, at least two voter service centers shall be open in each county having a population greater than one hundred fifty thousand from the tenth business day preceding the day of the election during regular business hours until the time provided in section 11-131 on the date of the election and at the same times statewide. The clerks may operate additional
voter service centers with varying days or hours of operations to service the voters of particular areas that could not otherwise support the operation of a voter service center for ten business days or the same times statewide. Any voter standing in line at a voter service center at the closing time provided in section 11-131 on the date of the election with the intent of voting shall be allowed to vote. A person eligible to vote but who is not registered to vote and is standing in line at a voter service center at the closing time provided in section 11-131 on the date of the election shall be permitted to apply under section 11-15.2 to register to vote and subsequently vote that election day. To the extent the registration clerk determines the applicant to be registered at that time, the applicant will be permitted to vote a regular ballot. If additional time is required to process the application, the applicant will be provided a provisional ballot."

2. By amending subsection (d) to read:

"(d) The clerks may designate and provide for places of deposit to be open five business days before the election until 7:00 p.m. on the day of the election; provided that the locations and apparatus for receiving voted ballots can be
securely maintained during the period of use for each election, and as may be permitted by the operational hours. The clerks may provide for places of deposit having varying or shorter days or hours of operation."

SECTION 20. Section 11-117, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) On receipt of the notice of death, withdrawal, or upon determination of disqualification, the chief election officer or the clerk shall inform the chairperson of the political party of which the person deceased, withdrawing, or disqualified was a candidate. When a candidate dies, withdraws, or is disqualified after the close of filing and the ballots have been printed, the chief election officer or the clerk may order the candidate's name stricken from the ballot or order that a notice of the death, withdrawal, or disqualification be prominently posted at the appropriate polling place[s] voter service centers on election day."

SECTION 21. Section 11-138, Hawaii Revised Statutes, is amended to read as follows:

"§11-138 Time allowed voters. A voter shall be allowed to remain in the voting booth for five minutes, and having voted
the voter shall at once emerge and leave the voting booth. If
the voter refuses to leave when so requested by a majority of
[precinct] voter service center officials after the lapse of
five minutes, the voter shall be removed by the [precinct] voter
service center officials."

SECTION 22. Section 11-153, Hawaii Revised Statutes, is
amended by amending subsection (c) to read as follows:
"(c) The chief election officer or the clerk shall make a
list of all [district] precincts in which an overage or
underage occurred and the amount of the overage or underage.
This list shall be filed and kept as a public record in the
office of the chief election officer or the clerk in county
elections.
An election contest may be brought under part XI, if the
overage or underage in any [district] precinct could affect the
outcome of an election."

SECTION 23. Section 11-155, Hawaii Revised Statutes, is
amended to read as follows:
"§11-155 Certification of results of election. On receipt
of certified tabulations from the election officials concerned,
the chief election officer, or county clerk in a county
election, shall compile, certify, and release the election results after the expiration of the time for bringing an election contest. The certification shall be based on a comparison and reconciliation of the following:

(1) The results of the canvass of ballots conducted pursuant to chapter 16;

(2) The audit of records and resultant overage and underage report;

(3) The audit results of the manual audit team;

(4) The results of the absentee ballot reconciliation report compiled by the clerks;

(5) The results of any mandatory recount of votes conducted pursuant to section 11-158; and

(6) All logs, tally sheets, and other documents generated during the election and in the canvass of the election results.

A certificate of election or a certificate of results declaring the results of the election as of election day shall be issued pursuant to section 11-156; provided that in the event of an overage or underage, a list of all precincts in which an overage or underage occurred shall be attached to the certificate. The
number of candidates to be elected receiving the highest number of votes in any election district shall be declared to be elected. Unless otherwise provided, the term of office shall begin or end as of the close of [polle] voter service centers on election day. The position on the question receiving the appropriate majority of the votes cast shall be reflected in a certificate of results issued pursuant to section 11-156."

SECTION 24. Section 11-172, Hawaii Revised Statutes, is amended to read as follows:

"§11-172 Contests for cause; generally. With respect to any election, any candidate, or qualified political party directly interested, or any thirty voters of any election district, may file a complaint in the supreme court. The complaint shall set forth any cause or causes, such as but not limited to, provable fraud, overages, or underages, that could cause a difference in the election results. The complaint shall also set forth any reasons for reversing, correcting, or changing the decisions of the [precinct] voter service center officials or the officials at a counting center in an election using the electronic voting system. A copy of the complaint
shall be delivered to the chief election officer or the clerk in the case of county elections."

SECTION 25. Section 11-173.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In a primary and special primary election contest, or a county election contest held concurrently with a regularly scheduled primary or special primary election, the complaint shall be filed in the office of the clerk of the supreme court no later than 4:30 p.m. on the thirteenth day after a primary or special primary election or a county election contest held concurrently with a regularly scheduled primary or special primary election, and shall be accompanied by a deposit for costs of court as established by the rules of the supreme court. Provided that a complaint for a contest for cause that arises from a mandatory recount pursuant to section 11-158 shall be filed no later than 4:30 p.m. on the third calendar day following the public announcement of the results of the mandatory recount pursuant to section 11-158(e)]. The clerk shall issue to the defendants named in the complaint a summons to appear before the supreme court no later than 4:30 p.m. on the fifth day after service of the summons."
SECTION 26. Section 11-174.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In cases involving general, special general, special, or runoff elections the complaint shall be heard by the supreme court in which the complaint was filed as soon as it reasonably may be heard. On the return day, the court, upon its motion or otherwise, may direct summons to be issued to any person who may be interested in the result of the proceedings.

At the hearing, the court shall cause the evidence to be reduced to writing and shall give judgment, stating all findings of fact and of law. The judgment may invalidate the general, special general, special, or runoff election on the grounds that a correct result cannot be ascertained because of a mistake or fraud on the part of the [precinct] voter service center officials; or decide that a certain candidate, or certain candidates, received a majority or plurality of votes cast and were elected. If the judgment should be that the general, special general, special, or runoff election was invalid, a certified copy thereof shall be filed with the governor, and the governor shall duly call a new election to be held not later than one hundred twenty days after the judgment is filed. If
the court shall decide which candidate or candidates have been
elected, a copy of that judgment shall be served on the chief
election officer or county clerk, who shall sign and deliver to
the candidate or candidates certificates of election, and the
same shall be conclusive of the right of the candidate or
candidates to the offices."

SECTION 27. Section 15-2, Hawaii Revised Statutes, is
amended to read as follows:

"§15-2 Who may vote by absentee ballot. Any person
registered to vote may cast an absentee ballot in any election,
including an election conducted by mail, in the manner provided
in this chapter and rules adopted by the chief election
officer."

SECTION 28. Section 15-2.5, Hawaii Revised Statutes, is
amended by amending its title and subsections (a) and (b) to
read as follows:

"§15-2.5 Voting by mail in [district] precinct affected by
natural disasters. (a) If the chief election officer and clerk
of a county affected as a result of a natural disaster determine
that the opening of a designated voter service center will
adversely affect the health and safety of voters or precinct
officials, the chief election officer and county clerk, by written order, may require the registered voters of any [district] precinct to vote by mail as provided in part VIIA of chapter 11.

(b) Within thirty days after the issuance of such an order, the chief election officer and county clerk shall notify all registered voters in the affected [district] precinct of the issuance of the order."

SECTION 29. Section 15-9, Hawaii Revised Statutes, is amended to read as follows:

"§15-9 Return [and], receipt, processing, and treatment of absentee ballots. [(a) The return envelope shall be—

(1) Mailed and must be received by the clerk issuing the absentee ballot no later than the closing hour on election day in accordance with section 11-131; or

(2) Delivered other than by mail to the clerk issuing the absentee ballot, or to a voter service center no later than the closing hour on election day in accordance with section 11-131."
(b) Upon receipt of the return envelope from any person voting under this chapter, the clerk may prepare the ballots for counting pursuant to this section and section 15-10.

(c) Before opening the return and ballot envelopes and counting the ballots, the return envelopes shall be checked for the following:

(1) Signature on the affirmation statement;
(2) Whether the signature corresponds with the absentee request or register as prescribed in the rules adopted by the chief election officer; and
(3) Whether the person is a registered voter and has complied with the requirements of sections 11-15 and 11-16.

(d) If any requirement listed in subsection (c) is not met or if the return or ballot envelope appears to be tampered with, the clerk or the absentee ballot team official shall mark across the face of the envelope "invalid" and it shall be kept in the custody of the clerk and disposed of as prescribed for ballots in section 11-154.] An absentee ballot shall be returned, received, processed, and treated in the same manner as a return
identification envelope in an election by mail under part VI A
of chapter 11."

SECTION 30. Section 15-11, Hawaii Revised Statutes, is
amended to read as follows:

"§15-11 Voting by absentee voter at [polls] voter service
centers prohibited. Any person having voted an absentee ballot
pursuant to this chapter shall not be entitled to cast a ballot
at [the polls] a voter service center on election day. An
absentee voter who does cast a ballot at [the polls] a voter
service center shall be guilty of an election offense under
section 19-3(5)."

SECTION 31. Section 15D-10, Hawaii Revised Statutes, is
amended to read as follows:

"[§]§15D-10[§] Receipt of voted ballot. A valid
military-overseas ballot shall be counted if it is received by
the close of the [polls] voter service centers on the day of the
election and meets the requirements prescribed under section
15-9."

SECTION 32. Section 16-23, Hawaii Revised Statutes, is
amended to read as follows:
"§16-23 Paper ballot; voting. Upon receiving the ballot
the voter shall proceed into one of the voting booths provided
for the purpose, and shall mark the voter's ballot in the manner
prescribed by section 16-22.

The voter shall then leave the booth and deliver the ballot
to the [precinct] voter service center official in charge of the
ballot boxes. The [precinct] voter service center official
shall be sufficiently satisfied that there is but one ballot
enclosed, whereupon the ballot shall be immediately dropped into
the proper box by the [precinct] voter service center official."

SECTION 33. Section 16-26, Hawaii Revised Statutes, is
amended to read as follows:

"§16-26 Questionable ballots. A ballot shall be
questionable if:

(1) A ballot contains any mark or symbol whereby it can be
    identified, or any mark or symbol contrary to the
    provisions of law; or

(2) Two or more ballots are found in the ballot box so
    folded together as to make it clearly evident that
    more than one ballot was put in by one person, the
    ballots shall be set aside as provided below.
Each ballot which is held to be questionable shall be endorsed on the back by [the chairperson of precinct officials with the chairperson's] a voter service center official with the official's name or initials, and the word "questionable". All questionable ballots shall be set aside uncounted and disposed of as provided for ballots in section 11-154."

SECTION 34. Section 16-27, Hawaii Revised Statutes, is amended to read as follows:

"§16-27 Number of blank and questionable ballots; record of. In addition to the count of the valid ballots, the [precinct] voter service center officials shall, as to each separate official ballot, also determine and record the number of totally blank ballots and the number of questionable ballots."

SECTION 35. Section 16-28, Hawaii Revised Statutes, is amended to read as follows:

"§16-28 Declaration of results. When the [precinct] voter service center officials have ascertained the number of votes given for each candidate they shall make public declaration of the whole number of votes cast, the names of the persons voted for, and the number of votes for each person."
SECTION 36. Section 11-181, Hawaii Revised Statutes, is repealed.

"S 11-181  Capital equipment. The State shall pay for all voting system capital equipment. This shall include, but not be limited to voting machines, voting devices, and initial computer programs."

SECTION 37. (a) Following the 2020 general election, the office of elections shall review the process for the electronic transmission of ballots, including its vulnerability to hacking or cyberattacks.

(b) The office of elections shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2021.

PART II

SECTION 38. The legislature finds that voter turnout in the State remains low and continues to decline. In 2016, Hawaii had the lowest voter turnout in the United States. Only 52.7 per cent of registered Hawaii voters cast ballots in the 2018 general election. This represents a sharp decline in voter turnout over the years, as approximately ninety-four per cent of
registered voters cast ballots in the State's first gubernatorial election in 1959.

Additionally, the State has a historically low rate of registered voters. According to a 2016 estimate from the United States Census Bureau, Hawaii had the lowest percentage of registered voters in the country at 49.8 per cent, well below the national average of 64.2 per cent. Therefore, of the 1,064,000 people in Hawaii who were qualified to vote in the 2016 election, 534,128 were not registered to vote.

The legislature further finds that voting at a young age creates and empowers lifelong voters. Data shows that after an individual votes once, the individual often becomes a habitual voter. Therefore, by facilitating the ability of those sixteen years of age and older to preregister or register to vote, the State will be empowering a new generation of lifelong voters.

Accordingly, the purpose of this part is to increase voter participation and encourage civic engagement in Hawaii's schools by establishing a process for the automatic preregistration and registration of public school- and charter school-enrolled students who are at least sixteen years of age.
SECTION 39. Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

"§11- Automatic voter preregistration and registration; opt out. (a) Beginning January 1, 2021, any person who:

(1) Is enrolled in a public high school or public charter school;

(2) Is otherwise qualified to preregister or register to vote under this part;

(3) Is at least sixteen years of age; and

(4) Properly completes and submits a voter registration affidavit,

shall be automatically preregistered or registered to vote as provided in this section.

(b) Between January 1 and January 31 of each year, the superintendent of education shall provide and may collect from each public school student who is at least sixteen years of age a voter registration affidavit containing the information required by section 11-15 to allow the student to preregister or register to vote or opt out of preregistering or registering to vote. The department of education shall collect and transmit
any voter registration affidavit provided to the department to
the clerk of the county in which the applicant resides, as
necessary; provided that the superintendent of education shall
not maintain, scan, review, or copy any voter registration
affidavit nor transmit any information maintained by the
department of education.

(c) Between January 1 and January 31 of each year, an
authorizer, as defined in section 302D-1, shall provide and may
collect from each charter school student who is at least sixteen
years of age a voter registration affidavit containing the
information required by section 11-15 to allow the student to
preregister or register to vote or opt out of preregistering or
registering to vote. The authorizer may transmit the voter
registration affidavit to the clerk of the county in which the
applicant resides; provided that the authorizer shall not
maintain, scan, review, or copy any voter registration affidavit
nor transmit any information maintained by the state public
charter school commission.

(d) The clerk shall determine whether the applicant is
currently preregistered or registered in the general county
register."
SECTION 40. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to part II, subpart C, to be appropriately designated and to read as follows:

"§302A- Automatic voter preregistration and registration. The superintendent, in consultation with the office of elections, may adopt and communicate guidelines as necessary to maximize and facilitate the preregistration and registration of qualifying students to vote as provided in section 11- ."

SECTION 41. Chapter 302D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§302D- Automatic voter preregistration and registration. The commission, in consultation with the office of elections, may adopt policies as necessary to maximize and facilitate the preregistration and registration of qualifying students to vote as provided in section 11- ."

PART III

SECTION 42. Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:
"§11-___ Ranked choice voting; application; procedure.

(a) Any:

(1) Federal election not held on the date of a regularly scheduled primary election or general election;

(2) Special election for a vacant state senate or state house of representatives seat; provided that the special election for the vacant state senate or state house of representatives seat shall be conducted on the same timetable as a vacant seat in the federal house of representatives; and

(3) Special election for a vacant seat on a county council;

shall be conducted by ranked choice voting. For any election conducted by ranked choice voting, the election proclamation required pursuant to section 11-91 shall state that votes shall be cast and tabulated using ranked choice voting and provide an explanation of ranked choice voting.

(b) Except as provided in subsections (c) and (d), the following procedures shall be used to determine the winner of an election conducted by ranked choice voting:

(1) Tabulation of votes shall proceed in rounds;
(2) In each round, the number of votes for each continuing candidate shall be counted, with each continuing ballot counting as one vote for its highest-ranked continuing candidate for that round;

(3) Inactive ballots shall not be counted for any continuing candidate; and

(4) The round shall end with one of two potential outcomes:

   (A) If there are two or fewer continuing candidates, the candidate receiving the most votes is declared the winner of the election; or

   (B) If there are more than two continuing candidates, the last-place candidate is defeated and a new round begins.

(c) A tie under this section between candidates for the most votes in the final round or a tie between last-place candidates in any round shall be decided by lot, and the candidate chosen by lot shall be defeated.

(d) The office of elections may modify a ranked-choice voting ballot and tabulation; provided that:
(1) The number of allowable rankings may be limited to no fewer than six; and

(2) Two or more candidates may be defeated simultaneously by batch elimination in any round of tabulation.

(e) For the purposes of this section:

"Batch elimination" means the simultaneous defeat of multiple candidates for whom it is mathematically impossible to be elected.

"Continuing ballot" means a ballot that is not an inactive ballot.

"Highest continuing ranking" means the highest ranking on a voter's ballot for a continuing candidate.

"Inactive ballot" means a ballot that does not rank any continuing candidate, contains an overvote at the highest continuing ranking, or contains two or more sequential skipped rankings before its highest continuing ranking.

"Last-place candidate" means the candidate receiving the fewest votes in a round of ranked-choice voting tabulation.

"Mathematically impossible to be elected", with respect to a candidate, means that:
(1) The candidate cannot be elected because the candidate's vote total in a round of the ranked-choice voting tabulation plus all votes that could possibly be transferred to the candidate in future rounds from candidates receiving fewer votes or an equal number of votes would not be enough to surpass the candidate receiving the next-higher vote total in the round; or

(2) The candidate has a lower vote total than a candidate described in paragraph (1).

"Overvote" means a circumstance in which a voter has ranked more than one candidate at the same ranking.

"Ranked choice voting" means the method of casting and tabulating votes in which voters rank candidates in order of preference, tabulation proceeds in sequential rounds in which last-place candidates are defeated, and the candidate with the most votes in the final round is elected.

"Ranking" means the number assigned on a ballot by a voter to a candidate to express the voter's preference for that candidate, in which number one is the highest ranking, number two is the next-highest ranking, and so on.
"Round" means an instance of the sequence of voting tabulation steps established in subsection (b).

"Skipped ranking" means a circumstance in which a voter has left a ranking blank and ranks a candidate at a subsequent ranking.

SECTION 43. Section 11-112, Hawaii Revised Statutes, is amended to read as follows:

§11-112 Contents of ballot. (a) The ballot shall contain the names of the candidates, their party affiliation or nonpartisanship in partisan election contests, the offices for which they are running, and the district in which the election is being held. In multimember races the ballot shall state that the voter shall not vote for more than the number of seats available or the number of candidates listed where the number of candidates is fewer than the number of seats available.

(b) The ballot may include questions concerning proposed state constitutional amendments, proposed county charter amendments, or proposed initiative or referendum issues.

(c) At the chief election officer's discretion, the ballot may have a background design imprinted onto it.
(d) When the electronic voting system is used, the ballot may have pre-punched codes and printed information which identify the voting districts, precincts, and ballot sets to facilitate the electronic data processing of these ballots.

(e) The name of the candidate may be printed with the Hawaiian or English equivalent or nickname, if the candidate so requests in writing at the time the candidate's nomination papers are filed. Candidates' names, including the Hawaiian or English equivalent or nickname, shall be set on one line.

(f) The ballot shall bear no word, motto, device, sign, or symbol other than as allowed in this title.

(g) The ballot may include information necessary to use ranked choice voting as described in section 11-___.

SECTION 44. Section 11-151, Hawaii Revised Statutes, is amended to read as follows:

"§11-151 Vote count. [Each] Except for contests conducted by ranked choice voting pursuant to section 11-__, each contest or question on a ballot shall be counted independently as follows:

(1) If the votes cast in a contest or on a question are equal to or less than the number to be elected or
chosen for that contest or question, the votes for that contest or question shall be counted;

(2) If the votes cast in a contest or on a question exceed the number to be elected or chosen for that contest or question, the votes for that contest or question shall not be counted; and

(3) If a contest or question requires a majority of the votes for passage, any blank, spoiled, or invalid ballot shall not be tallied for passage or as votes cast except that such ballots shall be counted as votes cast in ratification of a constitutional amendment or a question for a constitutional convention."

SECTION 45. Section 11-152, Hawaii Revised Statutes, is amended to read as follows:

"§11-152 Method of counting. (a) For votes cast using the electronic voting system, the ballots shall be taken in the sealed ballot containers to the counting center according to the procedure and schedule adopted by the chief election officer to promote the security of the ballots. For all votes cast in an election, in the presence of official observers, counting center
employees may start to count the ballots before election day, as
specified in section 11-108.

(b) In an election conducted by ranked choice voting, votes shall be counted as provided in section 11-___."

SECTION 46. Section 11-155, Hawaii Revised Statutes, is amended to read as follows:

"§11-155 Certification of results of election. On receipt of certified tabulations from the election officials concerned, the chief election officer, or county clerk in a county election, shall compile, certify, and release the election results after the expiration of the time for bringing an election contest. The certification shall be based on a comparison and reconciliation of the following:

(1) The results of the canvass of ballots conducted pursuant to chapter 16;

(2) The audit of pollbooks (and related record books) and resultant overage and underage report;

(3) The audit results of the manual audit team;

(4) The results of the absentee ballot reconciliation report compiled by the clerks;
(5) The results of any mandatory recount of votes conducted pursuant to section 11-158; and

(6) All logs, tally sheets, and other documents generated during the election and in the canvass of the election results.

A certificate of election or a certificate of results declaring the results of the election as of election day shall be issued pursuant to section 11-156; provided that in the event of an overage or underage, a list of all precincts in which an overage or underage occurred shall be attached to the certificate. The number of candidates to be elected who receive the most votes in any election district shall be declared to be elected; provided that candidates for offices elected by ranked choice voting shall be declared to be elected pursuant to section 11-. Unless otherwise provided, the term of office shall begin or end as of the close of polls on election day. The position on the question receiving the appropriate majority of the votes cast shall be reflected in a certificate of results issued pursuant to section 11-156."

PART IV
SECTION 47. Section 17-3, Hawaii Revised Statutes, is amended to read as follows:

"§17-3 State senator. (a) Whenever any vacancy in the membership of the state senate occurs, the term of which ends at the next succeeding general election:

(1) The governor shall make an appointment within sixty calendar days following the first day of vacancy to fill the vacancy for the unexpired term by selecting a person from a list of three prospective appointees submitted by the same political party as the prior incumbent. The appointee shall be at the time of appointment, and for at least six months immediately prior to before the appointment, a member of the political party. The appointee shall, at the time of appointment, be a resident of the same senate district as the prior incumbent. The political party shall submit the list of prospective appointees to the governor within thirty calendar days following the first day of vacancy; and

(2) If the prior incumbent was not a member of any political party, the governor shall, within sixty
calendar days following the first day of vacancy, 
appoint a person who is at the time of appointment a 
resident of the same senate district as the prior 
incumbent and who is not, and has not been for at 
least six months [prior to] before the appointment, a 
member of any political party.

(b) In the case of a vacancy, the term of which does not 
end at the next succeeding general election:

(1) If it occurs [not] no later than on the tenth day 
[prior to] before the close of filing for the next 
succeeding primary election, as specified in section 
12-6, the vacancy shall be filled for the unexpired 
term at the next succeeding general election. The 
chief election officer shall issue a proclamation 
designating the election for filling the vacancy. 
Notwithstanding any law to the contrary, all 
candidates for the unexpired term shall file 
nomination papers no later than the date and time 
specified in section 12-6 for the next succeeding 
primary election. All candidates for the unexpired 
term shall be nominated and elected in accordance with
this title. Pending the election, the governor shall
make a temporary appointment to fill the vacancy, and
the person so appointed shall serve until the election
of the person duly elected to fill the vacancy. The
governor shall make the appointment from a list of
three prospective appointees submitted by the same
political party as the prior incumbent. The appointee
shall be, at the time of the appointment, and shall
have been, for at least six months immediately [prior
to] before the appointment, a member of the political
party. The appointee shall, at the time of
appointment, be a resident of the same senate district
as the prior incumbent. If the prior incumbent was
not a member of any political party, the governor
shall appoint a person who is at the time of
appointment a resident of the same senate district as
the prior incumbent and is not and has not been, for
at least six months immediately [prior to] before the
appointment, a member of any political party;

[(2)] If it occurs later than on the tenth day prior to the
close of filing for the next succeeding primary
election but not later than on the sixtieth day prior to the next succeeding primary election, or if there are no qualified candidates for any party or nonpartisan candidates qualified for the primary election ballot, nominations for the unexpired term may be filed not later than 4:30 p.m. on the fiftieth day prior to the next succeeding primary election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person appointed shall serve until the election of the person duly elected to fill the vacancy. The governor shall make the appointment from a list of three prospective appointees submitted by the same political party as the prior incumbent. The appointee shall be, at the time of the appointment, and shall have been, for at least six months immediately prior to the appointment, a member of the political party. The appointee shall, at the time of appointment, be a resident of the same senate district as the prior
incumbent. If the prior incumbent was not a member of any political party, the governor shall appoint a person who is at the time of appointment a resident of the same senate district as the prior incumbent and is not and has not been, for at least six months immediately prior to the appointment, a member of any political party;

(3) [2] If it occurs [after the sixtieth day prior to the next succeeding primary] later than on the tenth day before the close of filing for the next succeeding primary election, as specified in section 12-6, but [not] no later than on the [fiftieth] ninety-fifth day prior to before the next succeeding general election, or if there are no qualified candidates for any party or nonpartisan candidates in the primary, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. Each candidate shall fill out an application for nomination papers, sign the proper certification on
the nomination papers, and take either an oath or
affirmation as provided by law. Party candidates for
the unexpired senate term shall be nominated by the
county committees of the parties. The chief
election officer shall be notified of the nominations
and the nomination papers of the partisan candidates
which shall be filed no later than 4:30 p.m. on the
[fortieth] seventy-fifth day before the
general election. Nonpartisan candidates may file nomination papers for the
unexpired term no later than 4:30 p.m. on the
[fortieth] seventy-fifth day before the
general election with the nonpartisan candidate who is
to be nominated to be decided by lot, under the
supervision of the chief election officer. The
candidates for the unexpired term shall be elected in
accordance with this title. Pending the election, the
governor shall make a temporary appointment to fill
the vacancy, and the person appointed shall serve
until the election of the person duly elected to fill
the vacancy. The governor shall make the appointment
from a list of three prospective appointees submitted by the same political party as the prior incumbent. The appointee shall be, at the time of the appointment, and shall have been, for at least six months immediately [prior to] before the appointment, a member of the political party. The appointee shall, at the time of appointment, be a resident of the same senate district as the prior incumbent. If the prior incumbent was not a member of any political party, the governor shall appoint a person who is at the time of appointment a resident of the same senate district as the prior incumbent and is not and has not been, for at least six months immediately [prior to] before the appointment, a member of any political party;

[+4+] (3) If it occurs after the [fiftieth] ninety-fifth day [prior to] before the next succeeding general election or if no candidates are nominated, the governor shall make an appointment to fill the vacancy for the unexpired term by selecting a person from a list of three prospective appointees submitted by the same political party as the prior incumbent. The
appointee shall be, at the time of the appointment, and shall have been, for at least six months immediately [prior to] before the appointment, a member of the political party. The appointee shall, at the time of appointment, be a resident of the same senate district as the prior incumbent. If the prior incumbent was not a member of any political party, the governor shall appoint a person who is at the time of appointment a resident of the same senate district as the prior incumbent and is not and has not been, for at least six months immediately [prior to] before the appointment, a member of any political party."

PART V

SECTION 48. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 49. This Act shall take effect on July 1, 2030.
Report Title:
Elections; Voting by Mail; Voter Preregistration or Registration; DOE; State Public Charter School Commission; Ranked Choice Voting; State Senate; State House of Representatives; Vacancies

Description:
Makes housekeeping amendments to Hawaii's elections laws to clarify and improve the administration of elections by mail. Establishes a process, beginning on January 1, 2021, for preregistering or registering public school- and charter school-enrolled students to vote. Establishes ranked choice voting for special federal elections, special elections for vacant state senate or state house of representatives seats, and special elections for vacant county council seats. Amends filing deadlines for candidates attempting to fill vacant state senate seats. Effective 7/1/2030. (HD2)

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