



STATE OF HAWAII  
CAMPAIGN SPENDING COMMISSION

235 SOUTH BERETANIA STREET, ROOM 300  
HONOLULU, HAWAII 96813

January 30, 2023

TO: The Honorable Karl Rhoads, Chair  
Senate Committee on Judiciary

The Honorable Mike Gabbard, Vice Chair  
Senate Committee on Judiciary

Members of the Senate Committee on Judiciary

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

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

Tuesday, January 31, 2023  
10:00 a.m., Conference Room 16 & Videoconference

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

This bill proposes an amendment to Article II of the Constitution of the State of Hawaii proposing the establishment of expenditure limits on "any independent expenditure committee to influence the outcome of a state election." If the intent of this measure is to curb the spending of committees that do not have contribution and expenditure limits (*i.e.*, Super PACs), for clarity, the Commission recommends that the provision in Section 2 be amended as follows:

"Section \_\_\_\_ . Limitations on moneys expended by any ~~independent expenditure committee~~ noncandidate committee making only independent expenditures to influence the outcome of a state election shall be provided by law."<sup>1</sup>

If the intent of this measure is to curb independent expenditures made by all noncandidate committees (except ballot-issue committees), the Commission recommends the following amendment to Section 2:

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<sup>1</sup> See *e.g.*, Hawaii Revised Statutes §11-393.

Testimony of the Campaign Spending Commission

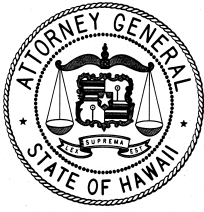
S.B. No. 467, Proposing an Amendment to Article II of the Constitution of the State of Hawaii

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“Section \_\_\_\_ . Limitations on ~~[moneys expended]~~ independent expenditures by any ~~[independent expenditure]~~ noncandidate committee to influence the outcome of a state election shall be provided by law.”

The Commission defers to the Department of the Attorney General regarding the constitutionality of any amendment to Article II.



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

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**ON THE FOLLOWING MEASURE:**

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

**BEFORE THE:**

SENATE COMMITTEE ON WAYS AND MEANS

**DATE:** Wednesday, March 1, 2023      **TIME:** 10:10 a.m.

**LOCATION:** State Capitol, Room 211

**TESTIFIER(S):**      **WRITTEN TESTIMONY ONLY.**  
(For more information, contact Candace J. Park,  
Deputy Attorney General, at 808-586-0618)

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Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General provides the following comments.

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

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

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

Thank you for the opportunity to provide these comments.



## **Democratic Party of Hawai'i Supports S.B. No. 467 SD1**

The Democratic Party of Hawai'i supports S.B. No. 467 SD1, to amend Hawaii Revised Statutes Chapter 710 propose an amendment to the Hawaii Constitution to allow the State to enact laws establishing limitations on moneys expended by any noncandidate committee making only independent expenditures to influence the outcome of a state election.

We broadly support measures that are designed to improve our government by making the instruments of government more transparent and accountable. We support measures that are designed to promote public confidence in the core of our democracy.

Mahalo.

Dennis W. Jung  
State Party Chair  
Democratic Party of Hawai'i

**SB-467-SD-1**

Submitted on: 2/27/2023 1:23:27 PM

Testimony for WAM on 3/1/2023 10:10:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Virginia Tincher	Individual	Support	Written Testimony Only

Comments:

Members of WAM,

Mahalo Senators Lee and Moriwaki for introducing this important bill.

This bill will help in the effort to make elections more equitable and less dependent on the amount of money a candidate can raise. Candidates can focus on meeting with constituents and discussing issues.

Pass SB467 SD 1 for a stronger democracy.

Mahalo,

Virginia Tincher

Aina Haina, Oahu

**LATE**

**SB-467-SD-1**

Submitted on: 2/28/2023 1:52:40 PM

Testimony for WAM on 3/1/2023 10:10:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Minister, Hector Hoyos (aka) SisterFace	Individual	Support	Written Testimony Only

Comments:

I loudly support anything that stops influence from major money and contributions, it's way long overdue