



GOV. MSG. NO. 932

EXECUTIVE CHAMBERS
HONOLULU

July 9, 2008

LINDA LINGLE
GOVERNOR

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: House Bill No. 661 HD1 SD3 CD1

On July 8, 2008, House Bill No. 661, entitled "A Bill for an Act Relating to Campaign Spending" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to establish a pilot project to provide public funding for the county of Hawaii council elections for three election cycles, starting with the 2010 elections.

Because this bill establishes a pilot program for a limited period of time, I am allowing this measure to become law. However, this measure raises a number of operational concerns. The legislation will likely create disparities and funding disadvantages to those seeking to participate in the program. The bill imposes a ceiling of \$300,000 for all participating candidates subject to this pilot program in any given election year. If the pilot project had been in effect for the 2006 election cycle in Hawaii County, a minimum of \$373,276 would have been spent, assuming just one publicly-funded candidate from each of the major political parties ran in each district. In reality, 23 candidates ran for Council offices during that cycle.

The fiscal implications experienced by other states of fully publicly funded elections also raises concerns about the fiscal impact on the Hawaii Election Campaign Fund. The Hawaii State Campaign Spending Commission reports that Massachusetts and Kentucky have terminated their full funding program due to costs. Connecticut reports increases from \$15 million in fiscal year 2006 to a projected cost of \$45 million for fiscal year 2008. The Commission believes that the Hawaii fund would be bankrupt within the first year of a statewide program, and the additional check-off would not generate anywhere near the required funds to maintain a viable program.

Of equal concern are the policy implications of public-financed campaigns since publicly funded campaigns undermine the competitive political process that has guided American politics for 200 years. It is disputable as to whether publicly funded campaigns have increased the number of candidates running for offices, impacted incumbent re-elections, increased voter turnout, ended negative campaigning, or prevented out-of-state money from influencing local campaigns.

The Honorable Colleen Hanabusa, President
and Members of the Senate

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For the foregoing reasons, I allowed House Bill No. 661 to become law as Act 244,
effective July 8, 2008, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle". The signature is fluid and cursive, with the first name "Linda" and last name "Lingle" clearly distinguishable.

LINDA LINGLE

1 "Candidate's committee" means a committee, as defined in
2 section 11-191, Hawaii Revised Statutes, which makes an
3 expenditure or accepts a contribution on behalf of a candidate
4 for nomination for election to the Hawaii county council, with
5 the candidate's authorization. A candidate shall have only one
6 authorized candidate's committee.

7 "Certification for comprehensive public funding" means the
8 decision by the commission that a candidate is certified to
9 receive public funding in accordance with this part.

10 "Certified candidate" or "comprehensive publicly funded
11 candidate" means a participating candidate who is certified by
12 the commission as eligible for comprehensive public funding
13 under this part and who agrees to abide by the requirements of
14 this part.

15 "Commission" means the campaign spending commission
16 established under section 11-192, Hawaii Revised Statutes.

17 "Contested election" means, in a primary election, the
18 certified candidate is opposed by one or more candidates for the
19 nomination; and, in a general election, the certified candidate
20 is opposed by one or more candidates for election to the office.

21 "County" means the county of Hawaii.



1 "County council" means the county council of the county of
2 Hawaii.

3 "Declaration of intent to seek comprehensive public
4 funding" means the form completed by a participating candidate
5 and the filing of which triggers the participating candidate's
6 ability to begin collecting qualifying contributions.

7 "District" means a county district, as established in
8 accordance with section 46-1.5, Hawaii Revised Statutes.

9 "Equalizing funds" means additional public funds released
10 by the commission to a comprehensive publicly funded candidate
11 to allow the publicly funded candidate to stay financially
12 competitive with a nonparticipating candidate in a contested
13 election and to penalize a nonparticipating candidate for filing
14 false or late reports.

15 "Excess expenditure" means the amount of comprehensive
16 public funds spent or obligated to be spent by a comprehensive
17 publicly funded candidate in excess of one hundred per cent of
18 the allocated funds for a primary election, general election, or
19 both.



1 "General election campaign period" means the period
2 beginning the day after the primary election and ending on
3 general election day.

4 "General election year" means the period commencing January
5 1 of an even-numbered year in which a general election is held
6 and ending on general election day.

7 "Independent expenditure" means an expenditure by any
8 person for a communication that expressly advocates the
9 nomination, election, or defeat of a clearly identified
10 certified candidate or nonparticipating candidate and that is
11 not made in concert or cooperation with or as part of any
12 coordinated activity or at the request or suggestion of the
13 certified candidate or nonparticipating candidate, a candidate's
14 committee, or their agents. For the purposes of this
15 definition, "clearly identified" means that the name, likeness,
16 photograph, or drawing of the certified candidate or
17 nonparticipating candidate is used, or the identity of the
18 certified candidate or nonparticipating candidate is apparent by
19 unambiguous reference.

20 "Nonmonetary contribution" means a contribution other than
21 of money that may include goods or services.



1 "Nonparticipating candidate" means a candidate who does not
2 qualify for or receive public funding during an election period
3 and is involved in a contested election with a certified
4 participating candidate.

5 "Participating candidate" means a candidate who is seeking
6 certification for comprehensive public funding under this part.

7 "Primary election campaign period" means the period in a
8 primary election year beginning with the certification for
9 comprehensive public funding under this part and ending on
10 primary election day.

11 "Public funding" or "public funds" means campaign funds
12 from the Hawaii election campaign fund under section 11 217,
13 Hawaii Revised Statutes, received by an eligible candidate
14 pursuant to this part.

15 "Qualifying contribution" means a \$5 monetary contribution
16 made in the form of a check or a money order payable to the
17 Hawaii election campaign fund for purposes of meeting the
18 criteria of section 7.

19 "Qualifying period" means the period in a general election
20 year, beginning January 1 and ending on the deadline for filing
21 candidate nomination papers during which a candidate may collect



1 qualifying contributions to qualify for comprehensive public
2 funding under this part; provided the commission has determined
3 that the Hawaii election campaign fund has sufficient funds to
4 make payments to comprehensive publicly funded candidates during
5 the election period.

6 "Seed money" means contributions made to a participating
7 candidate by an individual in accordance with section 5 that
8 shall be expended for the purpose of determining campaign
9 viability.

10 "Surplus campaign funds" means any campaign contributions
11 not spent during a prior election period by a participating
12 candidate who previously sought election as a privately funded
13 candidate.

14 SECTION 3. Sufficiency of funding for comprehensive public
15 funding. On September 1 of each odd-numbered year before the
16 general election years of 2010, 2012, and 2014, the commission
17 shall determine whether there is a minimum of \$3,500,000 in the
18 Hawaii election campaign fund established under section 11-217,
19 Hawaii Revised Statutes, to certify participating candidates
20 during the next election and provide funding for comprehensive
21 public funding for elections under this part.



1 If the commission determines that there is sufficient
2 funding, then within five business days, the commission shall
3 publish notice statewide, pursuant to section 1-28.5, Hawaii
4 Revised Statutes, that the comprehensive public funding program
5 shall become effective on January 1 of the following year. If
6 there is insufficient funding, then this part shall be
7 inoperative.

8 If this part is inoperative, candidates may seek public
9 funding as provided under subpart B of part XII of chapter 11,
10 Hawaii Revised Statutes.

11 SECTION 4. **Qualifications for comprehensive public**
12 **funding.** (a) A candidate may seek comprehensive public funding
13 for the primary election campaign period if the candidate:

14 (1) Resides in the district from which election is sought
15 as of the date of the filing of nomination papers for
16 the primary election in the general election year in
17 which the candidate seeks to be nominated or elected;

18 (2) Is a registered voter in the district from which
19 election is sought;

20 (3) Files a declaration of intent to seek comprehensive
21 public funding with the commission between January 1



1 of the election year and thirty days before the
2 closing date to file nomination papers to run for
3 office for which the candidate intends to seek
4 election;

5 (4) Collects a \$5 qualifying contribution in accordance
6 with section 7;

7 (5) Accepts only the following contributions prior to
8 applying for certification as a comprehensive publicly
9 funded candidate:

10 (A) Seed money contributions until the candidate
11 files a declaration of intent to seek
12 comprehensive public funding; and

13 (B) Qualifying contributions that may be accepted
14 only after filing the declaration of intent to
15 seek comprehensive public funding;

16 and

17 (6) Files an application for certification for
18 comprehensive public funding with the commission.

19 (b) A candidate is qualified to seek comprehensive public
20 funding for the general election campaign period if the
21 candidate:



- 1 (1) Was certified as a comprehensive publicly funded
2 candidate during the primary election campaign period
3 immediately preceding the general election in which
4 the funds under this part are provided; and
- 5 (2) Received a sufficient number of votes to appear on the
6 ballot in the general election or is otherwise
7 certified by the Hawaii county clerk to be placed on
8 the ballot in the general election.

9 SECTION 5. **Seed money contributions; limitations on use of**
10 **seed money; penalties.** (a) The use of seed money shall be
11 limited to expenditures necessary to determine whether
12 sufficient support exists for a participating candidate to run
13 for office as a comprehensive publicly funded candidate.

14 (b) The amount of seed money received or expended, or
15 both, by a candidate seeking eligibility for comprehensive
16 public funding for a county council seat shall not exceed
17 \$3,000. A candidate may use personal funds, surplus campaign
18 funds, or receive contributions from individuals in an aggregate
19 amount no greater than \$250 each.

20 (c) A participating candidate shall not accept
21 contributions of seed money from any individual whose



1 contributions are prohibited under subpart B of part XII of
2 chapter 11, Hawaii Revised Statutes. All contributors whose
3 seed money has been accepted shall be issued a receipt by the
4 participating candidate.

5 (d) Seed money shall not be collected after the candidate
6 has filed the declaration of intent to seek comprehensive public
7 funding, which must be filed no later than thirty days before
8 the closing date to file nomination papers to run for office for
9 which the candidate intends to seek election. The candidate may
10 spend seed money only until the candidate is certified by the
11 commission as a comprehensive publicly funded candidate or the
12 closing date to file nomination papers to run for office for
13 which the candidate intends to seek election, whichever occurs
14 first.

15 (e) Any unspent seed money shall be deducted from the base
16 amount of public funding if the certified candidate does not
17 donate the unspent seed money to the Hawaii election campaign
18 fund.

19 SECTION 6. Restriction on use of surplus campaign funds.

20 A certified candidate who has surplus campaign funds from a
21 previous election is prohibited from using those funds for



1 anything other than seed money pursuant to section 5(d) and in-
2 office constituent communications pursuant to section 11(b).
3 The surplus campaign funds shall be frozen and maintained in a
4 separate depository account from that established for the
5 comprehensive public funds under section 16. The candidate
6 shall continue to file reports on the surplus campaign funds in
7 accordance with subpart B of part XII of chapter 11, Hawaii
8 Revised Statutes, or as otherwise may be required by the
9 commission.

10 SECTION 7. **Qualifying contributions.** (a) Each qualifying
11 contribution shall meet the requirements of this section. To be
12 counted as a qualifying contribution, a contributor to a
13 candidate for a seat on the Hawaii county council shall be a
14 registered voter who resides within the county district to which
15 the candidate seeks nomination or election at the time the
16 contribution is given. The voter must not be given anything of
17 value in exchange for the qualifying contribution.

18 (b) No qualifying contribution shall be collected prior
19 to a candidate filing a declaration of intent to seek
20 comprehensive public funding with the commission.



1 (c) Any receipt for a qualifying contribution shall be
2 made in a form that may be prescribed by the commission.

3 (d) All qualifying contributions collected by candidates,
4 whether or not the candidate is certified, shall be deposited
5 into the Hawaii election campaign fund.

6 SECTION 8. Certification of qualification for
7 comprehensive public funds. (a) Candidates seeking
8 certification as a comprehensive publicly funded candidate shall
9 submit to the commission an application for certification that
10 contains at least two hundred printed names, addresses, and
11 signatures and qualifying contributions for the county of Hawaii
12 from registered voters in the district for which the candidate
13 seeks office no later than thirty days prior to the primary
14 election, signed by the participating candidate and the
15 participating candidate's campaign treasurer under penalty of
16 perjury. The clerk for the county of Hawaii shall verify that
17 at least two hundred signatures and qualifying contributions
18 were received from registered voters in the district for which
19 the candidate seeks office, that the candidate resides in the
20 district from which election is sought as of the date of the



1 filing of nomination papers, and that the candidate is a
2 registered voter in the district from which election is sought.

3 (b) The application shall also include any information
4 deemed necessary and appropriate by the commission.

5 (c) The commission shall issue a decision to certify or
6 deny certification of a candidate as a comprehensive publicly
7 funded candidate within ten business days following receipt of
8 the candidate's completed application for certification for
9 comprehensive public funds, including verification of the
10 information in subsection (a) by the clerk for the county of
11 Hawaii.

12 (d) After a participating candidate is certified, the
13 candidate's certification shall apply to both the primary and
14 the general election, even if the candidate is unopposed in the
15 primary election.

16 (e) Initial certification by the commission under
17 subsection (c) and all determinations by the commission under
18 this section are final and conclusive, except to the extent they
19 are subject to examination and audit by the commission under
20 section 10(a).



1 SECTION 9. Comprehensive publicly funded candidates;
2 contributions and expenditures; penalties. (a) Except as
3 authorized under section 12, a certified candidate shall comply
4 with the following restrictions on contributions and
5 expenditures:

6 (1) Upon certification for comprehensive public funding
7 and until the end of the general election campaign
8 period, a candidate shall not accept for use in the
9 campaign:

10 (A) Contributions from any person;

11 (B) Loans from any person, including a certified
12 candidate;

13 (C) Contributions from political parties; and

14 (D) Any campaign material purchased or held from a
15 date prior to filing the declaration of intent to
16 seek comprehensive public funds;

17 and

18 (2) Upon certification for comprehensive public funding
19 and until the end of the general election campaign
20 period, a candidate shall not expend for campaign
21 purposes:



1 (A) Any money except public funds issued by the
2 commission;

3 (B) Public funds for purposes other than those
4 permitted in this part;

5 (C) Public funds outside the applicable campaign
6 period; and

7 (D) Public funds in excess of the comprehensive
8 public funds allocated to the candidate,
9 including equalizing funds.

10 (b) A certified candidate who accepts contributions in
11 violation of this section shall be subject to a fine equal to
12 three times the public funding received, in addition to any
13 other action, fines, or prosecution under section 18 and subpart
14 B of part XII of chapter 11, Hawaii Revised Statutes, or any
15 provision of the Hawaii Penal Code.

16 (c) A certified candidate who makes expenditures of more
17 than one hundred per cent of the public funds allocated to the
18 candidate shall repay to the Hawaii election campaign fund an
19 amount equal to three times the excess expenditures.

20 SECTION 10. Comprehensive publicly funded candidate;
21 reporting. (a) A certified candidate and the certified



1 candidate's committee shall furnish to the commission complete
2 campaign records, including all records of seed money
3 contributions, qualifying contributions and expenditure. A
4 candidate shall fully cooperate with any audit or examination by
5 the commission.

6 (b) A certified candidate shall comply with the reporting
7 requirements of subpart B of part XII of chapter 11, Hawaii
8 Revised Statutes, in addition to those required under this part
9 or that may be required by the commission.

10 (c) An individual who uses seed money to determine whether
11 sufficient support exists to run for office as a comprehensive
12 publicly funded candidate who is not already registered with the
13 commission shall register as a candidate by filing the
14 organizational report required by section 11-194, Hawaii Revised
15 Statutes, within ten days of receiving more than \$100 in seed
16 money, either from contributions or personal funds.

17 (d) All reports required by subpart B of part XII of
18 chapter 11, Hawaii Revised Statutes, seed money reports, and
19 post-election reports shall be filed with the commission.

20 (e) Seed money reports shall be filed with the commission
21 no later than:



- 1 (1) January 31 of an election year;
- 2 (2) April 30 of an election year; and
- 3 (3) Twenty days prior to the primary election.
- 4 (f) Each report shall be current through:
 - 5 (1) The six-month period ending on December 31 for the
 - 6 report filed on January 31;
 - 7 (2) The three-month period ending on March 31 for the
 - 8 report filed on April 30; and
 - 9 (3) Thirty days prior to the primary election for the
 - 10 report filed twenty days prior to the primary
 - 11 election.
- 12 (g) The seed money reports shall include:
 - 13 (1) The committee's name and address;
 - 14 (2) The amount of cash on hand at the beginning of the
 - 15 reporting period;
 - 16 (3) The reporting period and aggregate total for each of
 - 17 the following categories:
 - 18 (A) Contributions;
 - 19 (B) Expenditures; and
 - 20 (C) Other receipts; and
 - 21 (4) The cash on hand at the end of the reporting period.



1 (h) Schedules filed with the seed money reports shall also
2 include:

3 (1) The amount and date of deposit of each contribution
4 and the name and address of each contributor who makes
5 contributions aggregating more than \$100 in an
6 election period; provided that if all the information
7 is not on file, the contribution shall be returned to
8 the contributor within thirty days of deposit;

9 (2) All expenditures made, including the name and address
10 of each payee and the amount, date, and purpose of
11 each expenditure. Expenditures for consultants,
12 advertising agencies and similar firms, credit card
13 payments, salaries, and candidate reimbursements must
14 be itemized to permit a reasonable person to determine
15 the ultimate intended recipient of the expenditure and
16 its purpose; and

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 (i) Post-election reports shall be submitted to the
21 commission no later than twenty days after a primary election



1 and no later than thirty days after a general election
2 certifying that all public funds paid to the candidate have been
3 used as required by this part. The reports shall include
4 information regarding all expenditures made, including the name
5 and address of each payee and the amount, date, and purpose of
6 each expenditure. Expenditures for consultants, advertising
7 agencies and similar firms, credit card payments, salaries, and
8 candidate reimbursements must be itemized to permit a reasonable
9 person to determine the ultimate intended recipient of the
10 expenditure and its purpose.

11 (j) All certified candidates shall file the reports
12 required under this part by electronic means in the manner
13 prescribed by the commission.

14 SECTION 11. Comprehensive publicly funded candidate;
15 continuing obligation. (a) A certified candidate shall comply
16 with all requirements under this part through the general
17 election campaign period, except as provided in section 11(d),
18 regardless of whether the certified candidate maintains
19 eligibility for comprehensive public funding in the general
20 election campaign period.



1 (b) Any surplus of funds up to \$4,000 for a certified
2 candidate elected to the office sought may be carried over to
3 pay for in-office constituent communications. Expenditures for
4 these communications shall not exceed \$2,000 per year or \$4,000
5 for a two-year term.

6 (c) If the total surplus for a certified candidate who is
7 elected to office falls under \$4,000, subsection (d)
8 notwithstanding, the office holder shall be allowed to raise the
9 difference with private contributions pursuant to subpart B of
10 part XII of chapter 11, Hawaii Revised Statutes in an aggregate
11 amount of \$2,000 per year; provided that the contributions are
12 received from an individual and each individual shall be limited
13 to contributing \$250 for the election period.

14 (d) Except for seed money contributions and qualifying
15 contributions a certified candidate who is elected to the office
16 sought shall not accept private contributions from any person
17 until either September 1 of the next odd-numbered year following
18 the general election in which the candidate was last elected, or
19 the date when the commission determines there are insufficient
20 funds under section 3, whichever occurs earlier.



1 (e) If a certified candidate withdraws from seeking the
2 nomination for or from the election, all unencumbered funds
3 received by the candidate under this part shall be returned to
4 the Hawaii election campaign fund within thirty days after
5 withdrawal.

6 SECTION 12. Sufficiency of public funding; amount of base
7 public funding; disbursements. (a) The commission shall not
8 distribute comprehensive public funding to certified candidates
9 that exceeds the total amount of \$300,000 for all candidates
10 subject to this part in any given election year in which this
11 part is operative.

12 (b) Beginning January 1 of a general election year and
13 ending with the deadline to submit applications for
14 certification, the commission shall post on its website a
15 monthly report stating, by district:

- 16 (1) The number of declarations of intent to seek
17 comprehensive public funding received;
- 18 (2) The number of applications for certification received;
- 19 (3) The number of candidates who have been certified for
20 comprehensive public funding;



1 (4) The amount of public funding committed to certified
2 candidates; and

3 (5) The amount of public funding available for additional
4 certified candidates.

5 Notwithstanding any other provisions in this part, if the
6 commission determines that the revenues are insufficient to meet
7 distributions to certified candidates under this section or
8 \$300,000 is distributed, the commission shall permit certified
9 candidates to accept and spend contributions, subject to the
10 campaign contribution limitations set forth in section 11-204,
11 Hawaii Revised Statutes, up to the applicable amounts, including
12 equalizing funds the certified candidate would have received
13 from comprehensive public funding.

14 (c) For primary elections subject to this part, the base
15 amount of public funding shall be the average of the amount
16 spent by the winning candidates in the previous two county
17 council primary elections of the same district, reduced by ten
18 per cent.

19 (d) For general elections subject to this part, the base
20 amount of public funding shall be the average of the amount
21 spent by the winning candidates in the previous two county



1 council general elections for the same district, reduced by ten
2 per cent.

3 (e) The base amount of public funding for a primary
4 election in which no other candidate has filed nomination papers
5 shall be thirty per cent of the amount provided in a contested
6 election as determined under subsection (c). No funding shall
7 be allocated in an uncontested general election.

8 (f) Public funds, including equalizing funds, shall be
9 paid to a certified candidate by the comptroller in the manner
10 prescribed in section 11-222, Hawaii Revised Statutes.

11 (g) If the winning primary candidate has residual funds
12 from the primary election, those funds may be carried over to
13 the general election provided that a winning primary candidate
14 who does not have an opponent in the general election shall
15 return all unexpended public funds to the Hawaii campaign
16 election fund within thirty days after the primary election
17 except as provided in section 11(b).

18 (h) A certified candidate who is not successful in the
19 election shall return all unexpended public funds to the Hawaii
20 election campaign fund within thirty days after the election in
21 which the candidate was not successful.



1 SECTION 13. Equalizing funds; sufficiency of funds. (a)
2 Equalizing funds, subject to the expenditure cap in section
3 12(a), shall be disbursed in the amounts provided in this
4 section to a certified candidate in a contested election
5 whenever that candidate is outspent by an opposing
6 nonparticipating candidate.

7 (b) An opposing nonparticipating candidate is deemed to
8 have outspent a certified candidate when the campaign report
9 filed pursuant to this subpart shows that the nonparticipating
10 candidate's committee's expenditures or contributions, whichever
11 is greater, added to any independent expenditures made in
12 support of that nonparticipating candidate or against the
13 opposing certified candidate reported by any person, minus any
14 independent expenditures made in support of the certified
15 candidate or against the nonparticipating candidate reported by
16 any person exceeds one hundred per cent of the base amount for
17 the certified candidate.

18 (c) In a contested election, the aggregate amount of
19 equalizing funds shall be limited to an amount equal to the base
20 amount allotted to the certified candidate regardless of the
21 amount of contributions received or expenditures made by an



1 opposing nonparticipating candidate; independent expenditures
2 made in support of that nonparticipating candidate or against
3 the opposing certified candidate; or the failure to file an
4 excess report on or before the due date by the nonparticipating
5 candidate or filing of a false excess report.

6 Twenty-five per cent of the base amount shall be paid to
7 the certified participating candidate in the manner prescribed
8 in section 11-222, Hawaii Revised Statutes, if the commission
9 determines that the nonparticipating candidate's committee's
10 expenditures or contributions, whichever is greater, added to
11 any independent expenditures made in support of that
12 nonparticipating candidate or against the opposing certified
13 candidate reported by any person, minus any independent
14 expenditures made in support of the certified candidate or
15 against the nonparticipating candidate reported by any person:

- 16 (1) Exceeds one hundred per cent but is less than one
17 hundred twenty five per cent;
- 18 (2) Is equal to or exceeds one hundred twenty five per
19 cent but is less than one hundred fifty per cent;
- 20 (3) Is equal to or exceeds one hundred fifty per cent but
21 is less than one hundred seventy five per cent; or



1 (4) Is equal to or exceeds one hundred seventy five per
2 cent
3 of the certified candidate's base amount.

4 SECTION 14. Reporting; public funds if report not filed by
5 nonparticipating candidate; penalties for failure to report. (a)
6 Reporting obligations under this section for nonparticipating
7 candidates and their candidate's committees or any other persons
8 making independent expenditures shall be in addition to the
9 reporting requirements under this part and chapter 11, Hawaii
10 Revised Statutes, whenever a certified candidate is opposed in a
11 contested election by a nonparticipating candidate as follows:

12 (1) Beginning forty-five days before the primary election
13 day, nonparticipating candidates and their candidate's
14 committees shall file an initial excess report with
15 the commission within twenty-four hours after
16 aggregate contributions are received, or expenditures
17 are made in an election that exceeds one hundred one
18 per cent of the base amount of comprehensive public
19 funding allotted to an opposing certified candidate in
20 a contested election. Nonparticipating candidates and
21 the candidate's committees shall file supplemental



1 excess reports within twenty-four hours after the
2 committees' aggregate expenditures exceed \$1,000 since
3 the filing of the prior report; and

- 4 (2) Beginning forty-five days before the general election
5 day, noncandidate committees and any other persons
6 that make independent expenditures that expressly
7 advocate the nomination, election, or defeat of a
8 certified candidate shall file the initial independent
9 expenditure report with the commission within twenty
10 four hours after expenditures exceed \$1,000 in
11 aggregate in an election. Noncandidate committees and
12 any other persons that incur independent expenditures
13 shall file supplemental independent expenditure
14 reports within twenty-four hours after the aggregate
15 expenditures exceed \$1,000 since the filing of the
16 prior report. The independent expenditure reports
17 shall identify the nonparticipating candidate or
18 certified candidate for whom the independent
19 expenditure is intended to influence the nomination,
20 election, or defeat.



1 (b) If a nonparticipating candidate and the candidate's
2 committee fails to file the initial excess report or
3 supplemental excess report in a contested election on or before
4 the due date as required by this section or files a false excess
5 report or supplemental excess reports, the commission, within
6 twenty-four hours of verifying the failure or falsity, shall
7 inform the comptroller. The entire base amount subject to the
8 expenditure cap in section 12(a) and equalizing funds cap in
9 section 13(c) shall be paid to a certified candidate by the
10 comptroller in the manner prescribed in section 11-222, Hawaii
11 Revised Statutes.

12 (c) Any nonparticipating candidate and the candidate's
13 committee, or any other person that makes independent
14 expenditures in a contested election involving a certified
15 candidate and that fails to file a report as required under this
16 part shall be subject to a fine pursuant to section 11-_____,
17 Hawaii Revised Statutes;

18 (d) Any nonparticipating candidate and the candidate's
19 committee, or any other person that makes independent
20 expenditures in a contested election involving a certified



1 candidate and that files a false report as required under this
2 part shall be subject to:

3 (1) Any penalty pursuant to section 11-228, Hawaii Revised
4 Statutes; and

5 (2) Prosecution pursuant to section 11-229, Hawaii Revised
6 Statutes, and any provision of the Hawaii Penal Code.

7 **SECTION 15. Comprehensive public funding; permitted uses.**

8 (a) Comprehensive public funds shall be used only for the
9 purpose of defraying expenses directly related to the certified
10 candidate's campaign during the election campaign period for
11 which the comprehensive public funds are allocated.

12 (b) A candidate receiving funds under this part or the
13 candidate's campaign treasurer shall not transfer any portion of
14 the funds provided under this part to any other candidate for
15 another campaign.

16 **SECTION 16. Deposit of, and access to, comprehensive**
17 **public funds.** (a) All public funds and seed money received by
18 a certified candidate shall be deposited directly into a
19 depository institution as provided under section 11-199(a),
20 Hawaii Revised Statutes, and accessed through use of debit cards
21 and bank checks. No expenditures of any public funds received



1 under this subpart shall be made except by debit cards or checks
2 drawn on such checking account.

3 (b) All reports required under subpart B of part XII of
4 chapter 11, Hawaii Revised Statutes, and this part for financial
5 disclosure shall include the most recent, available bank
6 statement from the financial depository holding the public
7 funds, as attested to by the candidate's committee.

8 SECTION 17. Deposit of money into the Hawaii election
9 campaign fund. The following moneys shall be deposited into the
10 Hawaii election campaign fund established under section 11-217,
11 Hawaii Revised Statutes:

- 12 (1) Appropriations from the legislature;
- 13 (2) Excess seed money contributions;
- 14 (3) Qualifying contributions, including any excess
15 qualifying contributions of certified candidates;
- 16 (4) Unspent public funds distributed to any certified
17 candidate;
- 18 (5) Fines levied by the commission for violation of this
19 part; and
- 20 (6) Voluntary donations.



1 SECTION 18. Violations; penalties. Any candidate who
2 knowingly seeks or receives public funding to fraudulently
3 qualify for or receive public funding shall:

4 (1) Have the candidate's certification for comprehensive
5 public funding revoked. Upon revocation of
6 certification, the certified candidate shall repay all
7 public funds received within ten business days to the
8 Hawaii election campaign fund; and

9 (2) Be subject to fines and penalties as specifically
10 provided in this part and other fines or penalties
11 pursuant to sections 11-228 and 11-229, Hawaii Revised
12 Statutes, and the Hawaii Penal Code.

13 SECTION 19. (a) This part shall be a pilot project limited
14 to the elections of 2010, 2012, and 2014 for the county of
15 Hawaii county council elections only.

16 (b) No candidate who is certified for comprehensive public
17 funding under this part in any of the elections of 2010, 2012,
18 and 2014 shall become eligible for partial public funding in the
19 election for which the candidate qualifies for comprehensive
20 public funding; provided that comprehensive public funding as



1 provided for in this part is practicable according to the terms
2 of Section 3.

3 (c) Seed money and qualifying contributions received by a
4 candidate shall be included in the aggregate contributions of
5 individuals for purposes of section 11-204, Hawaii Revised
6 Statutes, if:

7 (1) A candidate who is not certified for comprehensive
8 public funding subsequently seeks election as a
9 privately funded candidate in the same election for
10 which the candidate was not certified; or

11 (2) The commission determines, pursuant to section 12(b),
12 that revenues are insufficient to meet distributions
13 to certified candidates.

14 SECTION 20. The campaign spending commission shall create
15 and publish all forms and receipts required as well as a
16 candidates' guide to the comprehensive public funding program
17 that shall include an explanation of rules and procedures
18 applicable to candidates.

19 SECTION 21. Section 11-217.5, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§11-217.5 Depletion of fund. (a) The Hawaii election
2 campaign fund shall be under no obligation to provide moneys to
3 ~~[qualified]~~ eligible candidates ~~[in the event that]~~ if, in the
4 partial public funding program or comprehensive public funding
5 for elections to the county of Hawaii council, moneys in that
6 fund ~~[have been depleted.]~~ are near depletion.

7 (b) ~~[In the event that]~~ For purposes of the partial
8 funding program, if the Hawaii election campaign fund is close
9 to depletion, as determined by the commission, the commission
10 shall determine the amounts available to ~~[qualified]~~ eligible
11 candidates based on their order of eligibility in qualifying for
12 partial public funds, as determined by the date of filing of an
13 application for public funds with the commission pursuant to
14 section 11-222; provided that the application has been accepted
15 by the commission.

16 (c) For the purposes of the comprehensive public funding
17 for elections to the county councils, if the Hawaii election
18 campaign fund is close to depletion, the commission shall
19 determine whether that program shall be operative in accordance
20 with subpart ."



1 SECTION 22. If any provisions in this part conflict with
2 or are otherwise inconsistent with any statutory provision of
3 part XII of chapter 11, Hawaii Revised Statutes, this part shall
4 supersede any such conflicting or inconsistent statutory
5 provisions for the purposes of this part.

6 PART II

7 SECTION 23. Chapter 11, Hawaii Revised Statutes, is
8 amended by adding a new section to part XII, subpart B, to be
9 appropriately designated and to read as follows:

10 "§11- Failure to file report; filing a substantially
11 defective or deficient report. (a) True and accurate reports
12 shall be filed with the commission on or before the due date
13 specified in this subpart. Any committee that is required to
14 file reports under this subpart shall be subject to the
15 penalties in this section if the report is not filed by the due
16 date or if the report is substantially defective or deficient,
17 as determined by the commission.

18 (b) The penalty for not filing a report by the due date
19 shall be \$50 per day for the first seven days, beginning with
20 the day after the due date of the report, and \$200 per day
21 thereafter, not to exceed twenty-five per cent of the total



1 amount of contributions or expenditures, whichever is greater,
2 for the period covered by the report; provided that the minimum
3 penalty for a report filed more than four days after the due
4 date shall be \$200.

5 (c) Subsection (b) notwithstanding, if a candidate's
6 committee does not file the second preliminary primary report or
7 the preliminary general report or if a noncandidate committee
8 does not file the preliminary primary report or the preliminary
9 general report by the due date, the fine shall be \$300 per day,
10 not to exceed twenty-five per cent of the total amount of
11 contributions or expenditures, whichever is greater, for the
12 period covered by the report; provided that the minimum penalty
13 shall be \$300.

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

17 (1) The report is substantially defective or deficient;

18 and

19 (2) A penalty may be assessed.

20 (e) If the corrected report is not filed with the
21 commission's electronic filing system on or before the



1 fourteenth day after the notice of deficiency has been mailed,
2 the penalty for a substantially defective or deficient report
3 shall be \$50 per day for the first seven days, beginning with
4 the fifteenth day after the notice was sent, and \$200 per day
5 thereafter, not to exceed twenty-five per cent of the total
6 amount of contributions or expenditures, whichever is greater,
7 for the period covered by the report; provided that the minimum
8 penalty for not filing a corrected report more than eighteen
9 days after the notice was sent shall be \$200.

10 (f) The commission shall publish on its website the names
11 of all candidate's committees that have failed to file a report
12 or to correct a report within the time allowed by the
13 commission.

14 (g) All penalties collected under this section shall be
15 deposited into the general fund."

16 SECTION 24. Section 11-191, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By amending the definition of "loan" to read:

19 "Loan" means an advance of money, goods, or services, with
20 a promise to repay in full or in part within a specified period



1 of time. A "loan" does not include expenditures made on behalf
2 of a committee by a candidate, volunteer, or employee if:

3 (1) A candidate, volunteer, or employee's aggregate
4 expenditures do not exceed \$1,500 within a thirty day
5 period;

6 (2) A dated receipt and a written description of the name
7 and address of each payee and the amount, date, and
8 purpose of each expenditure is provided to the
9 committee before the committee reimburses the
10 candidate, volunteer, or employee; and

11 (3) The committee reimburses the candidate, volunteer, or
12 employee within forty-five days of the expenditure
13 being made."

14 2. By amending the definition of "person" to read:

15 "'Person" means an individual, partnership, committee,
16 association, corporation, business entity, organization, or
17 labor union and its auxiliary committees."

18 SECTION 25. Section 11-193, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) The duties of the commission under this subpart are:



- 1 (1) To develop and adopt reporting forms required by this
2 subpart;
- 3 (2) To adopt and publish a manual for all candidates and
4 committees, describing the requirements of this
5 subpart, including uniform and simple methods of
6 recordkeeping;
- 7 (3) To preserve all reports required by this subpart for
8 at least ten years from the date of receipt;
- 9 (4) To permit the inspection, copying, or duplicating of
10 any report required by this subpart pursuant to rules
11 adopted by the commission; provided that no
12 information or copies from the reports shall be sold
13 or used by any person for the purpose of soliciting
14 contributions or for any commercial purpose;
- 15 (5) To ascertain whether any candidate, committee, or
16 party has failed to file a report required by this
17 subpart or has filed a substantially defective or
18 deficient report, and to notify these persons by first
19 class mail that their failure to file or filing of a
20 substantially defective or deficient report must be
21 corrected and explained, and that a penalty may be



1 assessed. ~~[The correction or explanation shall be~~
2 ~~submitted in writing to the commission not later than~~
3 ~~4:30 p.m. on the fifth day after notification of the~~
4 ~~failure to file or deficiency has been mailed to these~~
5 ~~persons. The commission shall publish in the~~
6 ~~newspaper, and on its website, the names of all~~
7 ~~candidates, committees, and parties who have failed to~~
8 ~~file a report or to correct their deficiency within~~
9 ~~the time allowed by the commission. Failure to file~~
10 ~~or correct a report when due, as required by this~~
11 ~~subpart, shall result in a penalty of \$50. Failure to~~
12 ~~respond after a newspaper notification or website~~
13 ~~publication shall result in an additional penalty of~~
14 ~~\$50 for each day a report remains overdue or~~
15 ~~uncorrected. All penalties collected under this~~
16 ~~section shall be deposited in the [Hawaii election~~
17 ~~campaign fund,] general fund of the State;~~

- 18 (6) To hold public hearings;
- 19 (7) To investigate and hold hearings for receiving
- 20 evidence of any violations;



- 1 (8) To adopt a code of fair campaign practices as a part
2 of its rules;
- 3 (9) To establish rules pursuant to chapter 91;
- 4 (10) To request the initiation of prosecution for the
5 violation of this subpart pursuant to section 11-229;
- 6 (11) To administer and monitor the distribution of public
7 funds under this subpart;
- 8 (12) To suggest accounting methods for candidates, parties,
9 and committees, as the commission may deem advisable,
10 in connection with reports and records required by
11 this subpart;
- 12 (13) To employ or contract, without regard to chapters 76,
13 78, and 89 and section 28-8.3, and, at pleasure, to
14 dismiss persons it finds necessary for the performance
15 of its functions, including a full-time executive
16 director, and to fix their compensation;
- 17 (14) To do random audits, field investigations, as
18 necessary;
- 19 (15) To file for injunctive relief when indicated; and
- 20 (16) To render advisory opinions upon the request of any
21 candidate, candidate committee, noncandidate



1 committee, or other person or entity subject to this
2 chapter, as to whether the facts and circumstances of
3 a particular case constitute or will constitute a
4 violation of the campaign spending laws. If no
5 advisory opinion is rendered within ninety days after
6 all information necessary to issue an opinion has been
7 obtained, it shall be deemed that an advisory opinion
8 was rendered and that the facts and circumstances of
9 that particular case do not constitute a violation of
10 the campaign spending laws. The opinion rendered or
11 deemed rendered, until amended or revoked, shall be
12 binding on the commission in any subsequent charges
13 concerning the candidate, candidate committee,
14 noncandidate committee, or other person or entity
15 subject to this chapter, who sought the opinion and
16 acted in reliance on it in good faith, unless material
17 facts were omitted or misstated by the persons in the
18 request for an advisory opinion. Nothing in this
19 section shall be construed to allow the commission to
20 issue rules through an advisory opinion."



1 SECTION 26. Section 11-195, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§11-195 Filing of reports, generally. (a) All reports
4 required to be filed under this subpart by a [~~candidate or these~~
5 ~~committees directly associated with the candidate's candidacy]~~
6 candidate's committee shall be certified by the candidate and
7 treasurer. Reports required to be filed under this subpart by a
8 [~~party or committee that supports more than one candidate]~~
9 noncandidate committee shall be certified by [~~a person~~
10 ~~authorized to sign the reports. All reports required to be~~
11 ~~filed under this subpart shall be open for public inspection in~~
12 ~~the office of the commission.] the chairperson and treasurer.~~

13 (b) [~~The original and one copy of all]~~ All reports
14 required under this subpart shall be electronically filed [~~at~~
15 ~~the office of the commission. In the case of counties having~~
16 ~~less than two hundred thousand voters, the filing shall be~~
17 ~~accomplished by filing an original and two copies of the~~
18 ~~required report with either the commission or the clerk of the~~
19 ~~county in which the candidate resides. The clerk shall then~~
20 ~~immediately mail the original and one copy of the report to the~~
21 ~~commission.~~



1 ~~(e) The commission or county clerk shall give each person~~
2 ~~filing a report a receipt stating the type of report filed and~~
3 ~~the date and time of filing.~~

4 ~~(d) All reports filed with the county clerk's office shall~~
5 ~~be preserved by that office for four years from the date of~~
6 ~~receipt.] on the commission's electronic filing system.~~

7 ~~[(e)] (c) All reports required to be filed under this~~
8 ~~subpart shall at all times be available to the general public.~~

9 ~~[(f)] (d) For purposes of this subpart, whenever a report~~
10 ~~is required to be filed with the commission, "filed" means~~
11 ~~[received in the office of the commission or county clerk,~~
12 ~~whichever is applicable,] electronically filed on the~~
13 ~~commission's electronic filing system by the date and time~~
14 ~~specified for the filing of the report [; except that a~~
15 ~~noncandidate committee required to be registered with the~~
16 ~~commission pursuant to section 11-194(d), and a candidate] by~~
17 ~~the:~~

18 ~~(1) Candidate or the committee of a candidate who is~~
19 ~~seeking election to the:~~

20 ~~[(1)] (A) Office of governor;~~

21 ~~[(2)] (B) Office of lieutenant governor;~~



- 1 [~~3~~] (C) Office of mayor;
2 [~~4~~] (D) Office of prosecuting attorney;
3 [~~5~~] (E) County council;
4 [~~6~~] (F) Senate;
5 [~~7~~] (G) House of representatives;
6 [~~8~~] (H) Office of Hawaiian affairs; or
7 [~~9~~] (I) Board of education[~~7~~

8 ~~shall file by electronic means in the manner prescribed by the~~
9 ~~commission-]; or~~

10 (2) Noncandidate committee required to be registered with
11 the commission pursuant to section 11-194.

12 (e) In order to be timely filed, a committee's reports
13 shall be filed on the commission's electronic filing system on
14 or before 11:59 p.m. Hawaii standard time on the prescribed
15 filing date."

16 SECTION 27. Section 11-205.6, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§11-205.6 Campaign contributions; loans. (a) Any loan
19 to a candidate or candidate's committee in excess of \$100 shall
20 be documented and disclosed as to lender, including the lender's
21 name, address, employer, and occupation and purpose of the loan



1 in the subsequent report to the commission. A copy of the
2 executed loan document shall accompany the report. The document
3 shall contain the terms of the loan, including the interest and
4 repayment schedule. Failure to document the loan or to disclose
5 the loan to the commission shall cause the loan to be treated as
6 a campaign contribution, subject to all relevant provisions of
7 this chapter.

8 (b) A candidate or candidate's committee may receive and
9 accept loans in an aggregate amount not to exceed \$10,000 during
10 an election period, provided that if the \$10,000 limit is
11 reached, the candidate or candidate's committee shall be
12 prohibited from receiving or accepting any other loans until the
13 \$10,000 is repaid in full by the candidate or candidate's
14 committee.

15 (c) If any loan made to a candidate is not repaid within
16 one year of the date that the loan is made, the candidate and
17 candidate's committee shall be prohibited from accepting any
18 other loans, and all subsequent contributions received and any
19 surplus retained shall only be expended toward the repayment of
20 the outstanding loan, until the loan is repaid in full by the
21 candidate or candidate's committee.



1 (d) No loan may be accepted or made by noncandidate
2 committees.

3 (e) Any loan by a financial institution regulated by the
4 State or a federally chartered depository institution and made
5 in accordance with applicable law in the ordinary course of
6 business, or a loan by a candidate of the candidate's own funds,
7 or a loan from immediate family members of a candidate using
8 their own funds to the candidate's committee shall not be deemed
9 a contribution and not subject to the contribution limits
10 provided in section 11-204 or the loan limit and repayment
11 provisions of subsection (b) and (c); provided that loans from
12 the immediate family members of the candidate shall remain
13 subject to the provisions in section 11-204(c).

14 (f) For the purposes of this section, a "loan" does not
15 include expenditures made on behalf of a candidate committee by
16 a candidate, volunteer, or employee if:

17 (1) The candidate's, volunteer's, 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 and the amount, date, and



1 purpose of each expenditure is provided to the
 2 candidate committee before the candidate committee
 3 reimburses the candidate, volunteer, or employee; and
 4 (3) The candidate committee reimburses the candidate,
 5 volunteer, or employee within forty-five days of the
 6 expenditure being made."

7 SECTION 28. Section 11-206, Hawaii Revised Statutes, is
 8 amended by amending subsection (c) to read as follows:

9 "(c) Surplus funds may be used after a general or special
 10 election for:

- 11 (1) Any fundraising activity;
- 12 (2) Any other politically related activity sponsored by
- 13 the candidate;
- 14 (3) Any ordinary and necessary expenses incurred in
- 15 connection with the candidate's duties as a holder of
- 16 an elected state or county office; or
- 17 (4) Any contribution to any community service,
- 18 educational, youth, recreational, charitable,
- 19 scientific, or literary organization; provided that in
- 20 any election cycle, the total amount of all
- 21 contributions from [~~campaign funds and~~] surplus funds



1 shall be no more than twice the maximum amount that
2 one person or other entity may contribute to that
3 candidate pursuant to section 11-204(a); provided
4 further that no contributions from campaign funds
5 shall be made from the date the candidate files
6 nomination papers to the date of the general
7 election."

8 SECTION 29. Section 11-207.5, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) Each candidate, candidate's committee, or committee,
11 that within the period of fourteen calendar days through four
12 calendar days prior to a primary, special primary, general, or
13 special general election, makes contributions aggregating more
14 than \$500, or receives contributions from any person or entity
15 aggregating more than \$500, shall file a report with the
16 commission [~~or appropriate county clerk's office on forms~~
17 ~~provided by the commission, no later than 4:30 p.m.,~~] three
18 calendar days prior to the election."

19 SECTION 30. Section 11-212, Hawaii Revised Statutes, is
20 amended as follows:

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



1 "(a) (1) The candidate committee of each candidate whose name
2 will appear on the ballot in the immediately
3 succeeding election shall file a preliminary report
4 ~~[with the commission or appropriate county clerk's~~
5 ~~office]~~. Preliminary reports shall be filed ~~[on forms~~
6 ~~provided by the commission no later than 4:30 p.m.]~~ on
7 the following dates:

8 (A) July thirty-first of the year of the primary
9 election;

10 (B) Ten calendar days prior to each primary and
11 initial special election; and

12 (C) Ten calendar days prior to a special or general
13 election.

14 (2) Each report shall be certified pursuant to section 11-
15 195 and shall contain the following information which
16 shall be current through June 30 prior to the filing
17 of the report filed on the thirty-first of July and
18 fifth calendar day prior to the filing of other
19 preliminary reports:

20 (A) The aggregate sum of all contributions and other
21 campaign receipts received;



1 (B) The amount and date of deposit of the
2 contribution and the name and address of each
3 donor who contributes an aggregate of more than
4 \$100 during an election period, which has not
5 previously been reported; provided that if all
6 the information is not on file, the contribution
7 shall be returned to the donor within thirty days
8 of deposit;

9 (C) The amount and date of deposit of each
10 contribution and the name, address, employer, and
11 occupation of each donor who contributes an
12 aggregate of \$1,000 or more during an election
13 period, which has not previously been reported;
14 provided that if all the information is not on
15 file, the contribution shall be returned to the
16 donor within thirty days of deposit;

17 (D) All expenditures made, incurred, or authorized by
18 or for a candidate, including the name and
19 address of each payee and the amount, date, and
20 purpose of each expenditure; and



1 (E) A current statement of the balance on hand or
2 deficit.

3 (b) Each noncandidate committee shall file a preliminary
4 report with the commission [~~on forms provided by the~~
5 ~~commission, no later than 4:30 p.m.~~] on the tenth calendar day
6 prior to each primary election and the tenth calendar day prior
7 to a special or general election. Each report shall be
8 certified pursuant to section 11-195 and shall contain the
9 following information, which shall be current through the fifth
10 calendar day prior to the filing of a preliminary report:

11 (1) The aggregate sum of all contributions and other
12 campaign receipts received;

13 (2) The amount and date of deposit of the contribution and
14 the name, address, employer, and occupation of each
15 donor who contributes an aggregate of \$100 or more
16 during an election period, which has not previously
17 been reported; provided that if all the information is
18 not on file, the contribution shall be returned to the
19 donor within thirty days of deposit;

20 (3) The amount and date of each disbursement or
21 contribution made to a candidate, party, organization,



1 or committee, including the name and address of each
2 payee, which has not previously been reported;

3 (4) The amount and date of each expenditure made or
4 incurred by the committee for or against any
5 candidate, ballot issue, or on behalf of another
6 committee, which has not previously been reported; and

7 (5) A current statement of the balance on hand."

8 2. By amending subsection (d) to read:

9 "(d) A candidate, party, or committee whose aggregate
10 contributions and aggregate expenditures for the reporting
11 period each total \$2,000 or less may file a short form report
12 with the commission [~~or appropriate county clerk's office~~] in
13 lieu of the reports required by this section and section 11-
14 213."

15 SECTION 31. Section 11-213, Hawaii Revised Statutes, is
16 amended as follows:

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

18 "(a) Primary and initial special election. Each candidate
19 whether or not successful in a primary or initial special
20 election, authorized person in the case of a party, or campaign
21 treasurer in the case of a committee, shall file a final primary



1 report certified pursuant to section 11-195 with the commission
2 [~~on forms provided by the commission no later than 4:30 p.m.~~] on
3 the twentieth calendar day after a primary or initial special
4 election. The report shall include the following information
5 which shall be current through the day of the primary election:

6 (1) A statement of the total contributions and campaign
7 receipts received;

8 (2) The amount and date of deposit of each contribution
9 and the name and address of each donor who contributes
10 an aggregate of more than \$100 during an election
11 period, which has not previously been reported;
12 provided that if all the information is not on file,
13 the contribution shall be returned to the donor within
14 thirty days of deposit;

15 (3) The amount and date of deposit of each contribution
16 and the name, address, employer, and occupation of
17 each donor who contributes an aggregate of \$1,000 or
18 more during an election period, which has not
19 previously been reported; provided that if all the
20 information is not on file, the contribution shall be
21 returned to the donor within thirty days of deposit;



- 1 (4) A statement of all expenditures made, incurred, or
2 authorized by or for a candidate including the name
3 and address of each payee and the amount, date, and
4 purpose of each expenditure; and
- 5 (5) The cash balance and a statement of surplus or
6 deficit.
- 7 (b) Each noncandidate committee shall file a final primary
8 report, certified pursuant to section 11-195, [~~with the~~
9 ~~commission on forms provided by the commission no later than~~
10 ~~4:30 p.m.~~] on the twentieth calendar day after a primary
11 election. The report shall include the following information,
12 which shall be current through the day of the primary election:
- 13 (1) A statement of the total contributions and campaign
14 receipts received;
- 15 (2) The amount and date of deposit of each contribution
16 and the name, address, employer, and occupation of
17 each donor who contributes an aggregate of more than
18 \$100 during an election, which has not previously been
19 reported;
- 20 (3) The amount and date of each disbursement or
21 contribution made to a candidate, party, organization,



1 or committee, including the name and address of each
2 payee, which has not previously been reported;

3 (4) The amount and date of each expenditure made or
4 incurred by the committee for or against any
5 candidate, ballot issue, or on behalf of another
6 committee, which has not previously been reported; and

7 (5) A current statement of the balance on hand."

8 2. By amending subsection (d) to read:

9 "(d) General, special general, special election or
10 election period. Each candidate, authorized person in the case
11 of a party, or campaign treasurer in the case of a committee
12 shall file a final election period [~~general~~] report with the
13 commission on forms provided by the commission [~~no later than~~
14 ~~4:30 p.m.~~] on the thirtieth calendar day after a general,
15 special general, or special election. The final election period
16 report shall be certified pursuant to section 11-195, shall
17 report all items prescribed in subsection (a) or (b) for
18 noncandidate committees, and shall be current through the day of
19 the general election. A candidate who is unsuccessful in a
20 primary or special primary election shall file a final election
21 period report."



1 3. By amending subsections (f) and (g) to read:

2 "(f) Deficit. In the event of a deficit the candidate,
3 authorized person in the case of a party, or campaign treasurer
4 in the case of a committee shall, every six months until the
5 deficit is eliminated, file supplemental reports covering all
6 items prescribed in subsection (a) or subsection (b) in the case
7 of noncandidate committees. The first report shall be due no
8 later than [~~4:30 p.m. on~~] the thirty-first day after the last
9 day of the election year.

10 (g) Surplus. In the event of a surplus the candidate,
11 authorized person in the case of a party, or campaign treasurer
12 in the case of a committee, shall:

13 (1) Maintain the cash surplus in a financial depository;
14 and

15 (2) Every six months, until the candidate files to be on
16 the ballot with the state office of elections, or in
17 the case of a party or committee until they
18 participate in an election again, file supplemental
19 reports detailing all items prescribed in subsection
20 (a) or in the case of a noncandidate committee until
21 they participate in an election again, or file



1 supplemental reports detailing all items prescribed in
2 subsection (b).

3 The first report shall be due not later than [~~4:30 p.m. on~~]
4 the thirty-first calendar day after the last day of the election
5 year."

6 SECTION 32. Section 11-216, Hawaii Revised Statutes, is
7 amended by amending subsection (f) to read as follows:

8 "(f) If the commission renders a final determination of
9 violation, its written decision with findings of fact and
10 conclusions of law may also provide, without limitation the
11 following orders:

- 12 (1) The return of any contribution;
- 13 (2) The reimbursement of any unauthorized expenditure;
- 14 (3) The payment of any administrative fine payable to the
15 [~~Hawaii election campaign fund,~~] general fund of the
16 State;
- 17 (4) Cease and desist violation of this subpart; or
- 18 (5) File any report, statement, or other information as
19 required by this subpart."

20 SECTION 33. Section 11-228, Hawaii Revised Statutes, is
21 amended by amending subsection (d) to read as follows:



1 "(d) Any administrative fine collected by the commission
2 shall be deposited [~~in the Hawaii election campaign fund.~~] into
3 the general fund of the State of Hawaii."

4 SECTION 34. Section 235-102.5, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Any individual whose state income tax liability for
7 any taxable year is [~~\$2~~] \$3 or more may designate [~~\$2~~] \$3 of the
8 liability to be paid over to the Hawaii election campaign fund,
9 any other law to the contrary notwithstanding, when submitting a
10 state income tax return to the department. In the case of a
11 joint return of a husband and wife having a state income tax
12 liability of [~~\$4~~] \$6 or more, each spouse may designate that
13 [~~\$2~~] \$3 be paid to the fund. The director of taxation shall
14 revise the individual state income tax form to allow the
15 designation of contributions to the fund on the face of the tax
16 return and immediately above the signature lines. An
17 explanation shall be included which clearly states that the
18 check-off does not constitute an additional tax liability. If
19 no designation was made on the original tax return when filed, a
20 designation may be made by the individual on an amended return
21 filed within twenty months and ten days after the due date for



1 the original return for such taxable year. A designation once
2 made whether by an original or amended return may not be
3 revoked."

4 PART III

5 SECTION 35. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 36. If any provision of this Act or the
8 application thereof to any person or circumstance is held
9 invalid, the invalidity does not affect other provisions or
10 applications of the Act, which can be given effect without the
11 invalid provision or application, and to this end the provisions
12 of this Act are severable.

13 SECTION 37. This Act shall take effect upon its approval;
14 provided that part I shall take effect on July 1, 2008, and
15 shall be applicable beginning with the general election year of
16 2010. This part and part II shall take effect upon their
17 approval.



H.B. NO. 661
H.D. 1
S.D. 3
C.D. 1

APPROVED this day of , 2008

GOVERNOR OF THE STATE OF HAWAII