

TWENTY-SECOND DAY

Wednesday, February 20, 2008

The House of Representatives of the Twenty-Fourth Legislature of the State of Hawaii, Regular Session of 2008, convened at 12:06 o'clock p.m., with Vice Speaker Chong presiding.

The invocation was delivered in song by Representative Lynn Finnegan, after which the Roll was called showing all members present with the exception of Representatives Cabanilla, Morita and Souki, who were excused.

By unanimous consent, reading and approval of the Journal of the House of Representatives of the Twenty-First Day was deferred.

GOVERNOR'S MESSAGE

The following message from the Governor (Gov. Msg. No. 264) was received and announced by the Clerk and was placed on file:

Gov. Msg. No. 264, dated February 14, 2008, transmitting the Interim Report on Hawaii-Grown Coffee Labeling and Inspection, and Economic Impact of Potential Changes to Minimum Content Requirements, Senate Concurrent Resolution 102, Session Laws of Hawaii 2007.

SENATE COMMUNICATIONS

The following communications from the Senate (Sen. Com. Nos. 19 through 22) were received and announced by the Clerk:

Sen. Com. No. 19, transmitting S.B. No. 2407, SD 1, entitled: "A BILL FOR AN ACT RELATING TO REAL ESTATE APPRAISALS," which passed Third Reading in the Senate on February 15, 2008.

Sen. Com. No. 20, transmitting S.B. No. 2825, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT," which passed Third Reading in the Senate on February 15, 2008.

Sen. Com. No. 21, transmitting S.B. No. 2827, SD 1, entitled: "A BILL FOR AN ACT RELATING TO PUBLIC CONTRACTS," which passed Third Reading in the Senate on February 15, 2008.

Sen. Com. No. 22, transmitting S.B. No. 3240, SD 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE DRIVER'S LICENSE," which passed Third Reading in the Senate on February 15, 2008.

On motion by Representative B. Oshiro seconded by Representative Meyer and carried, the following Senate bills passed First Reading by title and further action was deferred: (Representatives Cabanilla, Morita and Souki were excused.)

S.B. No. 2407, SD 1	S.B. No. 2827, SD 1
S.B. No. 2825, SD 1	S.B. No. 3240, SD 1

DEPARTMENTAL COMMUNICATIONS

The following departmental communications (Dept. Com. Nos. 54 and 55) were received by the Clerk and were placed on file:

Dept. Com. No. 54, dated February 8, 2008, from the University of Hawaii, transmitting the report, the Annual Report on University of Hawaii Uncollectible Accounts FY2007.

Dept. Com. No. 55, dated February 19, 2008, from Marion M. Higa, State Auditor, Office of the Auditor, transmitting the Financial and Management Audit of the Moloka'i Irrigation System.

INTRODUCTIONS

The following introductions were made to the members of the House:

Representative Magaoay introduced world-class soccer player from Haleiwa, Mr. Brian Ching of the Houston Dynamos. He was accompanied by his mother and first coach, Ms. Stephanie Whalen; his cousin, Ms. Kelly Jackson; and Houston Dynamos Director of Public Relations, Mr. Steve Mark.

Representative Mizuno introduced gymnasts, their family members and coaches from the California Sports Center: Ms. Brandi Woo, Ms. Brianna Chrisman, Ms. Caitlin Anderson, Ms. Kristen Matsuno, Ms. Mary Peterson, Ms. Courtney Nakashima and Ms. Katelyn Foley. They were accompanied by members of his staff, Mr. Edgar Fernandez, legislative intern Mr. Michael Gatti of the UH School of Social Work, and legislative aides Dr. Leiolani Oyama and Ms. Josephine Dasario.

Representative Tsuji introduced students from the University of Hawaii School of Social Work: Ms. Paula Stockman Allerstorfer, Ms. Kristi Kubota, Mr. Leatapo Kaleopa, Mr. David Paz, Mr. Sunny Wheat and Mr. Stanford Sasaki.

Representative Har introduced her legislative intern, Mr. Jonathan Allen, Junior Class Vice President at Kapolei High School and Board of Education Student Representative.

Representative Ward introduced Mr. Dick Botti, President of the Hawaii Food Industry Association.

ORDER OF THE DAY

COMMITTEE ASSIGNMENTS

The following resolution and concurrent resolution were referred to committee by the Speaker:

<u>H.R.</u> <u>No.</u>	<u>Referred to:</u>
66	Committee on Tourism & Culture, then to the Committee on Finance
<u>H.C.R.</u> <u>No.</u>	<u>Referred to:</u>
82	Committee on Tourism & Culture, then to the Committee on Finance

The following bills were referred to committee by the Speaker:

<u>S.B.</u> <u>Nos.</u>	<u>Referred to:</u>
2399	Committee on Judiciary
2982	Committee on Water, Land, Ocean Resources & Hawaiian Affairs, then to the Committee on Human Services & Housing, then to the Committee on Finance
3061	Committee on Human Services & Housing, then to the Committee on Labor & Public Employment, then to the Committee on Finance

COMMITTEE REASSIGNMENTS

The following bills were re-referred to committee by the Speaker:

<u>H.B. Nos.</u>	<u>Re-referred to:</u>
266, HD1	Jointly to the Committee on Water, Land, Ocean Resources & Hawaiian Affairs and the Committee on Judiciary and the Committee on Finance
2929, HD1	Committee on Labor & Public Employment, then to the Committee on Finance
2969	Committee on Finance

STANDING COMMITTEE REPORTS

Representative Ito, for the Committee on Water, Land, Ocean Resources & Hawaiian Affairs presented a report (Stand. Com. Rep. No. 672-08) recommending that H.B. No. 2486, pass Second Reading and be placed on the calendar for Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that H.B. No. 2486, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative B. Oshiro.

Representative Ching rose to speak in support of the measure, stating:

"Mr. Speaker, in strong support."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2486, entitled: "A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION," passed Second Reading and was placed on the calendar for Third Reading with Representatives Cabanilla, Morita and Souki being excused.

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 673-08) recommending that H.B. No. 2409, pass Second Reading and be placed on the calendar for Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 2409, entitled: "A BILL FOR AN ACT RELATING TO AUTOMATED TELLER MACHINES," passed Second Reading and was placed on the calendar for Third Reading with Representatives Cabanilla, Morita and Souki being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 674-08) recommending that H.B. No. 2455, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that H.B. No. 2455, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative B. Oshiro.

Representative Thielen rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. I'm rising to speak against the campaign spending bill which increases corporate contributions. This is Standing Committee Report No. 674.

"Mr. Speaker, let me just read from one of the organizations that testified against this bill. First of all, what the bill will do is raise the

amount of the contributions that a corporation can give to a political candidate. The Americans for Democratic Action, the Hawaii Chapter, testified in strong opposition to this bill and I quote, in part:

For the past two years, Act 205 of the 2005 Legislature has limited corporate contributions to political campaigns. We are aware that the interpretation of this law has not been resolved in the courts and the Legislature's attempting to clarify it. However this bill proposes to do so by drastically increasing the ability of corporations to influence political decision-making for campaign contributions.

"They go on to say:

Allowing the deep pockets of corporations to fund candidates greatly dilutes the impact of individuals on the political process. We do not know on what basis a democracy can allow corporations to make campaign contributions at all. The directors or officers in corporations have the same right as all other people to make such contributions as individuals. On that basis should they be given an additional opportunity, one not available to the general public to direct money under their control to political campaigns through their corporation? Doing so gives those officers and directors more opportunity to influence politics than has the average citizen and seriously damages our democracy.

The Americans for Democratic Action Hawaii Chapter also notes that the federal government and 22 states disallow all direct contributions to candidates for office.

"Mr. Speaker this bill moves us backward. A number of us were supporting clean elections, publically funded elections. Those people that said they supported clean elections should be voting no on this bill. It moves us backward, gives corporations undue influence and moves us further away from clean government. So I am voting a strong no."

Representative B. Oshiro rose to speak in support of the measure, stating:

"Mr. Speaker, I rise to speak in support. I just wanted to clarify some of the comments. First and foremost, a corporation is entitled to give corporate contributions in a campaign, and that has already been decided by the United States Supreme Court in the *First National Bank of Boston v. Bellotti* case 435 U.S. 765 (1978). They've already held that you cannot necessarily prohibit corporations from giving to campaigns because it's part of free speech. So I think that argument falls by the wayside.

"The second argument is whether other jurisdictions such as the federal government and/or other states have allowed a prohibition on direct corporate contributions, and they have done so. Because what the Supreme Court has said is you can do that if you allow them an alternative vehicle and that's done through a non-candidate committee, or as we commonly call them, a PAC. So that is the problem that is before us today.

"What we had when we passed Act 205 [Act 203] in 2005 was an interpretation, unfortunately wrong, by the Campaign Spending Commission, and that was found to be incorrect by the Circuit Court of the 2nd Circuit in their findings of fact and conclusions of law dated July 23, 2007. So they have an unenforceable law and interpretation on the books. They said, 'We can't do anything about it because it's on appeal. We don't know how long that's going to take.' Unfortunately what that does with their interpretation, wrongly so as they have admitted ... Well, not that they've admitted, but as already found by the courts. But that prevents corporations from donating at all because it really severely chills their opportunity for speech.

"So I think if we're going to be living by the United States Supreme Court, that case that I already cited, we need to correct this because our own Campaign Spending Commission unfortunately has an erroneous interpretation of the law. Even our own Attorney

General has supported our position and said that the Campaign Spending Commission's interpretation of the law is wrong.

"So at this point we have the AG saying they're wrong. We have a court saying they're wrong. And now we're going to be saying they're wrong, because that appears to be the only way that they're going to listen and know what the proper interpretation is. Because while they can have an interpretation, ultimately they are an administrator and executor of the policy, and not the policy-maker. That is something for us to decide. So for those reasons, I stand in support."

Representative Finnegan rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative McKelvey rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Green rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Carroll rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Pine rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Berg rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Marumoto rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Luke rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, I rise with reservations and if I could make some brief comments. When we initially passed the Act 203 in 2005, one of the driving forces behind the change was the Campaign Spending Commission. And I think the Campaign Spending Commission itself knew what they wanted to accomplish. What precipitated that was an outdated law. I think it was passed in the 80s or decades before which pretty much said, 'If you're a corporation you have to register as a PAC.' So now, in order to try to rectify that change, they said, 'Okay, if you have to be a PAC, now you have to comply with the PAC rules.' So they came up with this idea that it has to be limited to \$1,000.

"My reservation is pretty simple: I think there is unclarity in the law. I've always felt that we need to let the core process figure out what exactly the contribution limit and the contribution laws are in the State of Hawaii, and we need to let this go. For us to change the way it is in midstream, we're going to have different laws guiding people who gave prior to this new bill being in effect, post the *Tavares* decision, or pre-*Tavares* decision. I think there's a lot of confusion and I think the Campaign Spending Commission right now is going to try to have people comply with Act 203, but until that time, and until there's a final decision by the Supreme Court, I don't think the Legislature should get involved. Thank you."

Representative Ching rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Saiki rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

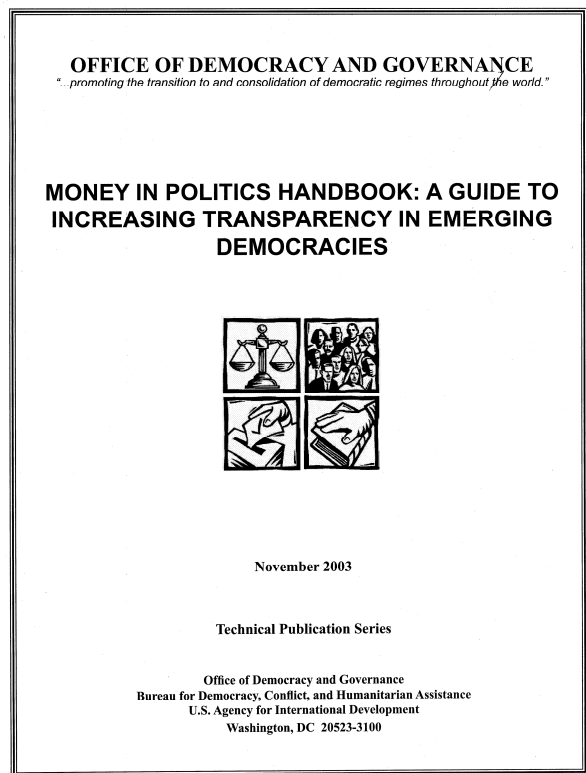
Representative Ward rose to speak in support of the measure with reservations, stating:

"Mr. Speaker, I am voting with reservations and would like a brief comment to be added into the Journal if I may. Mr. Speaker, the law of the land is that if you're a corporation or a union, you cannot give money to federal candidates. That has been the law of the land for years, notwithstanding what was an aberration of the court case that

says that it's doable. It is doable through PACs. That's the law of the land.

"What the Representative of Kailua has said, that we are going backwards if we're going to put corporations and mainstream them into giving as unlimited as individuals do. She should be very clear, one of the first campaign spending bills that was in the early 1900s in limiting corporations, except corporations got around them. And it was only until a couple of decades ago that we actually straightened that out, and now it is clearly only through Political Action Committees that corporations can give. And also, more recently with unions. These two big dynamos were really what was at battle, in the corporate battle for campaign finance. With that Mr. Speaker, I will have other remarks to be submitted for the Journal. Thank you."

Representative Ward submitted the following publication:



ACKNOWLEDGMENTS

Gene Ward, PhD

Gene is senior advisor political finance in the USAID Office of Democracy and Governance. He received his Ph.D. from the University of Hawaii while a degree scholar at the U.S. State Department-funded East-West Center in Honolulu. His area specializations are international economic and political development. He served in the Hawaii House of Representatives from 1990 until 1998, half of this time as the minority leader. Gene was a candidate for the U.S. Congress from Hawaii's First Congressional District in 1998. Prior to joining the Office of Democracy and Governance, he was the program coordinator for the International Republican Institute's Local Autonomy project in Indonesia. Before entering elected politics, Gene was the co-founder and executive director of an entrepreneurship development non-profit organization, the first in the United States to put the unemployed into their own businesses. He spent two years in Malawi as an advisor to the U.N. International Labor Office in Lilongwe. Gene is the primary author of this handbook, with the research component conducted by the International Foundation for Election Systems. Special appreciation and acknowledgement for the organizational and editorial contributions that shaped this handbook are due Michele Schimpp.

Michael Pinto-Duschinsky, PhD

Michael is a leading world authority on international political finance. He is a senior research fellow in politics at Brunel University, U.K., and chairs the International Political Science Association's Research Committee on Political Finance and Political Corruption. Michael has authored a number of books and articles on political finance including the recent ACE Project (*Administration and Cost of Elections*). He is a member of the board of directors of the International Foundation for Election Systems, and has advised numerous governments on political finance.

Herbert Alexander, PhD

Herb is distinguished emeritus professor of political science and is the leading authority on political finance in North America. He received his doctorate in political science from Yale University and has specialized on the question of money and politics since his days as a research scholar in graduate school. Herb has taught, lectured, and published on the subject at Princeton, Yale, and the University of Southern California. He has also served governments at the federal and state levels as, among other things, executive director of the president's Commission on Campaign Costs and, later, consultant to the president, and as consultant to the comptroller general of the United States. Herb has written, co-authored, or edited more than 20 books and 200 articles relating to money in politics, including *Financing Politics: Money, Elections and Political Reform*, 9th Edition.

International Foundation for Election Systems (IFES)

IFES was responsible for the data collection for this handbook. Founded in 1987, IFES is a private, non-profit, nonpartisan over-funded organization dedicated to providing need-based assistance in election administration and sustainable democracy building. It also serves as a clearinghouse for information and resources on elections worldwide. Headquartered in Washington, DC, with field offices in 25 countries across Africa, the Americas, Asia, Europe, and the Middle East, IFES has supported democratic initiatives in more than 120 countries. It has a multilingual staff of over 200 worldwide, offering vast country-specific experience in election administration, good governance, rule of law, civil society, conflict resolution, applied research, gender issues, public information technology, and more.

IFES commissioned case studies and contributions from the following researchers: Randhir Jain (on India), Joel Rocamora (on the Philippines), Marcin Walecki (on Ukraine), Laura Thornton (on Thailand), Menachem Hofnung (on international court cases), Nicole Gordon (on enforcement), and Robert Dahl (on a model disclosure law). Eve E. Epstein completed the final technical edits. The Organization of American States (OAS) is translating this handbook into Spanish.

TO ORDER THIS DOCUMENT FROM THE DEVELOPMENT EXPERIENCE CLEARINGHOUSE:

- Please reference the document title (*Money in Politics Handbook: A Guide to Increasing Transparency in Emerging Democracies*) and document identification number (PN-ACR-223).
- USAID employees, USAID contractors overseas, and USAID sponsored organizations overseas may order documents at no charge.
- Universities, research centers, government offices, and other institutions located in developing countries may order up to five titles at no charge.
- All other institutions and individuals may purchase documents. Do not send payment. When applicable, reproduction and postage costs will be billed.

Fax orders to (301) 588-7787 Attn: USAID Development Experience Clearinghouse (DEC)
E-mail orders to docorder@dec.edie.org

ABOUT THE TECHNICAL PUBLICATION SERIES

The USAID Office of Democracy and Governance Technical Publication Series was launched in March 1998. The series includes publications intended principally for USAID personnel; however, all persons interested in the sector may benefit from the series. Authors of individual publications may be USAID officials and/or other individuals from the public and private sector. The Office of Democracy and Governance reserves the right to review and edit all publications for content and format and all are subject to a broad USAID review process. The series is intended in part to indicate best practices, lessons learned, and guidelines for practitioner consideration. The series also includes publications that are intended to stimulate debate and discussion.

A list of other relevant publications and ordering information are included at the back of this document.

ABOUT THIS PUBLICATION

This is the first publication by USAID on the topic of political finance in emerging democracies. Its purpose is to increase understanding by USAID field staff, host-country political leaders, civil society organizations, and the media of the sometimes obscure and sensitive topic of political finance. It also creates awareness of the issues and benefits of open finances and suggests some practical technical assistance options that encourage the use of disclosure as a methodology for strengthening national democratic political processes.

Comments regarding this publication and inquiries regarding political finance should be directed to

Michele Schimpp, Division Chief, Elections and Political Processes
Tel: (202) 712-5039
Fax: (202) 216-3231
mschimpp@usaid.gov

Gene Ward, Elections and Political Processes
Tel: (202) 712-1079
Fax: (202) 216-3231
gward@usaid.gov

Office of Democracy and Governance
Bureau for Democracy, Conflict, and Humanitarian Assistance
U.S. Agency for International Development
Washington, DC 20523-3100

More information, including electronic versions of the DG Office's Technical Publication Series, is available from the DG Office's Intranet site at <http://inside.usaid.gov/G/DG/> and USAID's democracy Internet site at http://www.usaid.gov/our_work/democracy_and_governance/

ABOUT THE DG OFFICE

The Office of Democracy and Governance is the U.S. Agency for International Development's focal point for democracy and governance programming. The DG Office's role is to provide USAID and other development practitioners with the technical and intellectual expertise needed to support democratic development. It practices this expertise in the following areas:

- ◻ Rule of Law
- ◻ Elections and Political Processes
- ◻ Civil Society
- ◻ Governance

MONEY IN POLITICS HANDBOOK: A GUIDE TO INCREASING TRANSPARENCY IN EMERGING DEMOCRACIES

CONTENTS

EXECUTIVE SUMMARY1

I. INTRODUCTION7

II. CAMPAIGN AND PARTY FINANCE: RISKS AND REFORM9

A. Money in Politics: Potential Risks9

B. Controlling Money in Politics: Main Reform Approaches13

C. Enforcement: Turning Laws into Practice18

III. THE ANATOMY OF DISCLOSURE21

A. The Disclosure Process21

B. Who Needs to Disclose What and to Whom21

C. Timely Access to Disclosure Data25

D. Potential Costs and Disadvantages of Disclosure25

IV. INTERNATIONAL TRENDS IN DISCLOSURE27

V. CONTROLLING MONEY IN POLITICS: THE U.S. EXPERIENCE33

A. Legal Framework of Campaign Finance in the U.S.33

B. Highlights of the U.S. National-level Political System34

VI. UNDERSTANDING THE MONEY IN POLITICS LANDSCAPE39

A. Defining the Nature and Extent of the Problem39

B. Identifying Key Actors and Allies41

C. Identifying the Legal Framework and Practices44

VII. ADVANCING DISCLOSURE47

A. Establish and Strengthen Coalitions and Their Members47

B. Review and Enhance the Legal Framework for Disclosure49

C. Encourage Reforms with Political Parties and Leaders49

D. Strengthen Enforcement50

E. Link with Anti-corruption Programming51

F. Support Regional Organizations52

G. Move Forward52

APPENDIX A: Basic Disclosure Rules in 118 Countries

APPENDIX B: Act of Congress to Improve Financial Disclosure in Foreign Countries

APPENDIX C: Bibliography and Website References

APPENDIX D: Sample Disclosure Forms

APPENDIX E: Disclosure Thresholds by Country

APPENDIX F: Enforcement of Disclosure by Courts

APPENDIX G: Detailed Guidelines on Drafting a Disclosure Law

APPENDIX H: Controlling Money in Politics: U.S. Legislative Milestones

Nevertheless, there are at least four risks associated with money in politics that prompt the effort to control it:

- **Uneven playing field**—the risk that large sums of money in politics give undue advantage over others and constrains competition
- **Unequal access to office**—the risk that certain sectors of a population lacking money are prevented from running for office or getting meaningful representation
- **Co-opted politicians**—the risk that those who donate funds will control the politicians they finance
- **Tainted politics**—the risk that dirty or illicit money will corrupt the system and undermine the rule of law

These risks threaten both democratic and economic development and many emerging democracies have yet to address them.

B. The Key Role of Disclosure in Controlling Money in Politics

In general, there are six main approaches to controlling money in politics. They are contribution limits, contribution bans, spending limits, campaign time limits, public disclosure, and public financing. Often a combination of approaches are included in a given reform initiative, but there is no agreed upon formula for what constitutes the best mixture of approaches.

What is clear is that limits and prohibitions on money in politics, or political finance, can work only if there are adequate rules for disclosure. Public disclosure is the most basic method of controlling money in politics. It requires two things: (1) that candidates and parties report in detail on receipts and expenditures; and (2) that campaign and party funding reports are available for timely public scrutiny. Founded in transparency and openness, public disclosure lets the public decide what to do with the information disclosed. Disclosure is generally accepted as more neutral than other restraint strategies. Without disclosure, most of the other strategies to control money in politics simply won't work or are not enforceable.

It is, therefore, an important finding of the USAID survey of 118 countries that most nations do not hold their politicians accountable through disclosure requirements. Highlights of survey findings include

- **Hidden donors**—Very few countries require politicians to reveal sources of campaign funds. Only 32 percent require revealing the names of donors to political parties. This means that in most of the countries, parties and campaigns could be funded by anybody and escape public scrutiny.
- **Secrecy**—Of the countries surveyed, 23 percent have no disclosure laws whatsoever, thus depriving their publics of any basis for informed discussion. Another 17 percent practice a kind of "hidden" disclosure. They collect some political finance information, but do not release the information to the public.
- **Insufficient disclosure**—The vast majority of reporting takes the form of aggregate numbers. However, without itemization of contributions or expenditures, reports cannot be audited by

2

Money in Politics Handbook

EXECUTIVE SUMMARY

This handbook is a primer on the topic of money in politics with special emphasis on the role of disclosure. "Money in politics" refers to the funds used for electioneering and influencing political processes. "Political finance" is an umbrella term for "party finance" or "campaign finance." In parliamentary systems, which are largely party-driven, party finance is the term of choice. In presidential systems, which are candidate-driven, campaign finance is the term of choice.

The handbook provides an overview of campaign and party finance, examines the role that money plays in the politics of a nation, and describes how countries attempt to regulate the flow of funds into political contests. Its main premise is that disclosure of campaign and political party finance is the cornerstone upon which all other attempts to control money in politics rest. Transparency is a foundational principle for democracy, and key to the legitimacy of every nation's elected officials as well as its electoral and political processes.

The purpose of the handbook is to orient and provide action-related ideas to democracy practitioners, civil society organizations and activists, political leaders, scholars, election authorities, and the international community concerned with the influence of money in politics. In addition to highlighting the risks of money in politics, it summarizes strategies to control the flow, showing that the need for more disclosure and enforcement lies at the heart of reform efforts. It provides a framework for understanding the money in politics landscape in a country and suggests a variety of program options.

Sunlight is the best disinfectant.

Justice Louis Brandeis (U.S. Supreme Court 1916-1939)

This handbook contributes to existing literature in the emerging field of political finance and is the first publication entirely committed to the topic of political financial disclosure. It reflects the findings of a rigorous, systematic survey of disclosure laws in 118 developed and developing countries around the world and examines the global state of transparency.¹ It also provides highlights of the U.S. effort to make political finance fair and transparent.

A. Why Money in Politics is Important

Without money in politics, competitive multi-party democracies could not function, nor could their governments operate. Like a form of free speech, political finance is linked to the health and strength of a democracy. Laws and regulations to control political finance risk stifling the basic right of citizens to provide funding to the candidate or party of their choice.

¹ See Appendix A for the disclosure status of each country surveyed: 23 percent of countries (N=27) surveyed were from Africa; 20 percent from the Asia/Pacific region (N=20); 29 percent were from eastern and western Europe (N=29); with the Caribbean and Latin American countries comprising 26 percent of the surveyed countries, and the United States and Canada representing 2 percent of the surveyed nations. Under USAID sponsorship, the International Foundation for Election Systems (IFES) conducted a survey to determine the state of the art of disclosure in the world. Information on the political finance disclosure laws of 118 countries was collected. This survey provides the most comprehensive comparative examination of disclosure laws to date.

electoral commissions or civil society. Countries that require reporting of names of donors to political parties may not require listing the amount of money each donor contributed. Countries that require expenditure reporting may not require identification of vendors and products or services purchased. This inhibits the audit trail and obviates full disclosure.

C. Understanding the Money in Politics Landscape

It is not easy to determine whether—and in what way—money in politics is a problem in a given country. For one thing, a widespread bias towards more suspicion of wrongdoing than empirical studies can refute tends to obscure the analysis process. For another, very few people understand how political finance works, and information is hard to come by. Further, there is no systematic methodology for studying the issue.

To get an analytical handle on these challenges, this handbook offers a framework for strategic assessment. It offers key questions as starting points for data gathering and discussion in a three-stage process:

1. **Defining the nature and extent of the problem**—This stage guides assessment of the problem within the context of the four principal risks. It helps determine which risks are the most serious, and how risk factors inter-relate. The nature and extent of the problem will dictate the kinds of interventions with the highest potential for success.
2. **Identifying key actors and allies**—This stage guides assessment of the players who are, or could be, the advocates or champions for money in politics reform. Possible key actors and allies are election commissions, civil society, media, and reform-minded politicians and parties. These groups work on their own and together. It is critical to know who the advocates are or might be, what they can or could do, and what kinds of strategic alliances among them can advance money in politics reform.
3. **Identifying the legal framework and practice**—This stage guides assessment not only of laws and regulations that are on the books, but also of the realities reflecting compliance and enforcement. It helps identify the nexus between policy and practice as well as the incentives and disincentives the legal infrastructure creates for candidates and parties.

Answers to these questions will better enable democracy practitioners to determine whether there is a need for campaign and party finance reform, with particular attention to disclosure, and if so, whether conditions are sufficiently favorable for promoting reform through disclosure.

D. Assistance Options for Democracy Practitioners

Each country situation is unique, and money in politics programming is still in the developmental stage. Nevertheless, some NGOs, political leaders, media representatives, researchers, and regional and international organizations have implemented a number of initiatives that hold promise for achieving results. External assistance can support these initiatives, singly or in combination. Options include

- **Establish and strengthen coalitions and their members.** Greater transparency in political finance requires joining the forces of those interested in reform, potentially including civil society organizations, political parties or selected politicians, the media, and election commissioners.

Assistance can focus on increasing advocacy skills for disclosure, introducing innovative techniques for partnering, defining a coalition leadership structure, identifying ways to draw additional strategic partners into the alliance, planning for managing opposition, and other functions that support coalition members individually and collectively.

- **Review and enhance the legal framework.** Research completed for this handbook found that few nations have adequate disclosure laws and regulations. Programs can provide expertise in reviewing the country's disclosure laws and other relevant legal and regulatory provisions, resulting in detailed recommendations for improvements. They can also assist various constituencies (such as reform-minded legislators, election commissioners, other relevant government agencies, and NGOs) considering options for new and/or revised laws and regulations, and facilitate a group effort to draft them.
- **Encourage reform with political parties and leaders.** Political parties and leaders can be engines of political finance reform and proponents of public disclosure. There are types of assistance that may be specifically targeted to parties. Identifying reform-minded parties and political leaders is the first step, followed by assistance to help shape a reform agenda that stresses disclosures benefits to both parties, the public, and candidates. Or if disclosure is already in place, helping political parties to build systems and capacities can achieve greater compliance.
- **Strengthen enforcement.** Public disclosure effectively enforced is the backbone of most approaches to controlling money in politics. Enforcement of public disclosure can be strengthened indirectly by working with coalitions to lobby for better enforcement of laws and regulations, to assist in monitoring disclosure reports, and to encourage the will of enforcers to follow through on their responsibilities. Or enforcement may be strengthened through improving the legal framework, addressing legal barriers to effective public disclosure and/or the institutional weakness of enforcement bodies.
- **Link with anti-corruption initiatives.** USAID-supported anti-corruption initiatives are increasing worldwide. Many can easily expand to incorporate disclosure. One of the easiest anti-corruption measures that cross over into political finance disclosure is asset disclosure by elected and appointed officials. It is becoming increasingly popular within the context of countering corruption, is reasonably acceptable politically, and relatively easy to implement and verify.
- **Support regional organizations.** The focus on money in politics is a global phenomenon. Many regional organizations are increasingly concerned with money in politics, especially disclosure, as people addressing the issue learn from each other's experiences and identify opportunities for collaboration. Such organizations as the Association of Central and Eastern European Election Officials (ACEEEO) and the Organization of American States (OAS) are actively pursuing an agenda of campaign finance disclosure through education, research, and technical assistance.

The political history of nations is well known, but their political financial history is just now being written through the study of money in politics, and much more needs to be learned. The state of the art of disclosure has shown that much more needs to be done to be able to account for how much money political parties and candidates in emerging democracies are actually collecting or spending to win elections. Even less is known about where the money comes from.

Disclosure allows the government and the public to keep score on the amounts, sources, and destinations of money in politics. Disclosure reports are to politics what profit and loss statements are to business. Without them, governments and citizens risk never knowing the price tag of their democracy or the identity of the major influences behind it, whether corporate, union, ordinary citizens, special interest groups, drug lords or other criminal elements.

Political finance is a vital issue for democracy, governance, and development. No matter how flawless are a country's elections, how active its civil society, how competitive its political parties, and how responsible its local authorities, the role of money in politics undeniably influences the quality of democracy and governance. Only through greater transparency will one fully understand the extent and nature of this influence.

Representative Belatti rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2455, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING," passed Second Reading, and was placed on the calendar for Third Reading with Representative Thielen voting no, and with Representatives Cabanilla, Morita and Souki being excused.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 675-08) recommending that H.B. No. 2602, as amended in HD 1, pass Second Reading and be placed on the calendar for Third Reading.

Representative Caldwell moved that the report of the Committee be adopted, and that H.B. No. 2602, HD 1, pass Second Reading and be placed on the calendar for Third Reading, seconded by Representative B. Oshiro.

Representative Thielen rose to speak in opposition to the measure, stating:

"Thank you, Mr. Speaker. I'm rising to speak against Standing Committee Report No. 675, which is another campaign spending bill. Thank you, Mr. Speaker there are two provisions in this bill to which I object. I will speak to one of them, and someone else may want to speak to the other.

"In the first section of the bill, subsection 14, it raises the amount from \$100 to \$250 for the candidate to be required to give the name, address, occupation and employment of the donor. In other words, as the law stands now, if we receive \$100.01, we're required by law to give the name, address and occupation of that donor. That is good for the purposes of transparency in political campaigns.

"This bill now raises that amount to \$250. That's a significant increase, Mr. Speaker. And it means that donors that give you money, \$250 will just be lumped together as a line item. No identification of who they are. No identification of their employer. No transparency in the political arena. Both of these bills, the one before this that we discussed, and this bill, go backwards.

"We've made some good strides toward campaign spending reform. These bills go backward and I just don't see why the Members of this body want to do that. It makes no sense to me. The Clean Elections had a lot of momentum and a lot of support. I can look around at the faces in this room and see those who have been here for a while that stood up and claimed they believed in clean elections. This bill goes backward Mr. Speaker."

Representative Finnegan rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Marumoto rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Pine rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Ching rose and asked that the Clerk record an aye vote with reservations for her, and the Chair "so ordered."

Representative Meyer rose and asked that the Clerk record a no vote for her, and the Chair "so ordered."

Representative Ward rose to speak in opposition to the measure, stating:

"Mr. Speaker, I would like a no vote with a couple of comments. Mr. Speaker, this bill will encourage a lot of \$249 contributions. The last that I knew, House seats probably have \$35,000-\$50,000 as their upbeat standard amounts. In the national elections, to run for

Congress it's about \$1 million. And to run for the Senate, it's about \$3 million. They have it reporting at \$200. So why would we with more *manini* elections have a higher threshold unless we're trying to hold something or keep something from the public. So \$250 I think is stretching it, even if you put it in inflation and other issues. I think we're just 'out of whack' with this one. Thank you, Mr. Speaker."

Representative McKelvey rose and asked that the Clerk record an aye vote with reservations for him, and the Chair "so ordered."

Representative Belatti rose to speak in opposition to the measure, stating:

"Mr. Speaker, on Stand. Com. 675-08, I am in opposition. By way of opposition, what I'd like to do is speak to the other portion of the bill that was not raised by the good Representative from the Windward side.

"My question is for a ruling on a potential conflict. I think my candidacy, my campaign will benefit from the increase of using the surplus funds for community service groups, educational groups as a type of way to use our campaign contribution funds. I am asking for a ruling," and the Chair ruled, "no conflict."

Representative Belatti continued, stating:

"Mr. Speaker, I think that this piece is, while I respect that the ruling is 'no conflict', I do believe that this is a conflict for us and that our candidacies, and our campaigns benefit from this law change. I think while organizations in the community are definitely worthy and deserving of our contributions, that money given to us for our campaigns should not be used for this purpose. That is the grounds for my opposition, Mr. Speaker. Thank you."

The motion was put to vote by the Chair and carried, and the report of the Committee was adopted and H.B. No. 2602, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING," passed Second Reading, and was placed on the calendar for Third Reading with Representatives Belatti, Finnegan, Meyer, Thielen and Ward voting no, and with Representatives Cabanilla, Morita and Souki being excused.

Representative Ito, for the Committee on Water, Land, Ocean Resources & Hawaiian Affairs presented a report (Stand. Com. Rep. No. 676-08) recommending that H.B. No. 266, as amended in HD 1, be recommitted to the Committee on Water, Land, Ocean Resources & Hawaiian Affairs.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 266, HD 1, entitled: "A BILL FOR AN ACT RELATING TO HAWAIIAN AFFAIRS," was recommitted to the Committee on Water, Land, Ocean Resources & Hawaiian Affairs with Representatives Cabanilla, Morita and Souki being excused.

Representative M. Oshiro, for the Committee on Finance presented a report (Stand. Com. Rep. No. 677-08) recommending that H.B. No. 3191, as amended in HD 1, be recommitted to the Committee on Finance.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3191, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY OF THE HAWAII INCOME TAX LAW TO THE INTERNAL REVENUE CODE," was recommitted to the Committee on Finance with Representatives Cabanilla, Morita and Souki being excused.

The Chair then announced:

"Members, please note the 48-hour notice for the Stand. Com. Report Nos. 678-08 and 679-08."

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 678-08) recommending that H.B. No. 2034, as amended in HD 1, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 678-08 on H.B. No. 2034, HD 1 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2034, HD 1, were made available to the members of the House.

Representative Waters, for the Committee on Judiciary presented a report (Stand. Com. Rep. No. 679-08) recommending that H.B. No. 2254, HD 1, as amended in HD 2, pass Third Reading.

By unanimous consent, consideration of Stand. Com. Rep. No. 679-08 on H.B. No. 2254, HD 2 was deferred and in accordance with Article III, Section 15 of the Constitution of the State of Hawaii, printed copies of H.B. No. 2254, HD 2, were made available to the members of the House.

SUSPENSION OF RULES

On motion by Representative B. Oshiro, seconded by Representative Meyer and carried, the rules were suspended for the purpose of considering certain bills on Third Reading on the basis of a modified consent calendar. (Representatives Cabanilla, Morita and Souki were excused.)

STANDING COMMITTEE REPORT

Representative Herkes, for the Committee on Consumer Protection & Commerce presented a report (Stand. Com. Rep. No. 680-08) recommending that H.B. No. 3106, pass Third Reading.

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, the report of the Committee was adopted and H.B. No. 3106, entitled: "A BILL FOR AN ACT RELATING TO GRADUATES OF FOREIGN ACUPUNCTURE PROGRAMS," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Souki being excused.

At 12:36 o'clock p.m., the Chair noted that H.B. No. 3106 passed Third Reading.

THIRD READING

H.B. No. 647, HD 2:

On motion by Representative Caldwell, seconded by Representative B. Oshiro and carried, H.B. No. 647, HD 2, entitled: "A BILL FOR AN ACT RELATING TO ENERGY," passed Third Reading by a vote of 48 ayes, with Representatives Cabanilla, Morita and Souki being excused.

At 12:37 o'clock p.m., the Chair noted that H.B. No. 647, HD 2, passed Third Reading.

ANNOUNCEMENTS

Representative Rhoads: "Mr. Speaker and colleagues, I just wanted to note that today is our esteemed colleague from the 44th district's birthday. Let's give her a round of applause for making it through another year."

Representative Shimabukuro: "Thank you. I also wanted to extend an invitation to all the Members. The Legal Aid Society is having its

annual reception today in Room 329 from 4:30 to 6:00 pm. There will be food so please come."

Representative Ching: "Thank you, Mr. Speaker. I am sorry to announce today to members of the historic preservation community, as well as the overall community that the State of Hawaii has lost one of its greatest community leaders. She was someone who the Executive Director of the Hawaii Public Radio, described as, 'completely without peer.'

"Yesterday morning, Hawaii lost Nancy Bannick, who was the instrumental force behind saving Chinatown, designating it as a historic district, thereby saving it from the wrecking ball in 1973. We honored this special lady on the Floor here, but she was also well-known for being one of the instrumental leaders in saving the Natatorium, practically as it was said here in the *Honolulu Advertiser*: Single handedly, she was literally the driving force behind many organizations. And frankly, if it had not been for Nancy, perhaps one or two others, I'm not sure, there wouldn't be a Hawaii Public Radio.

"We all know her as a staunch supporter of the Honolulu Symphony. I just wanted to perhaps have a moment of silence and remember things that we sometimes take for granted, would not exist, but for sometimes the efforts of just a few special people. I'd like to ask for a moment of silence, please."

At this time, the House of Representatives stood for a moment of silence in memory of the late Ms. Nancy Bannick.

ADJOURNMENT

At 12:41 o'clock p.m. on motion by Representative B. Oshiro, seconded by Representative Meyer and carried, the House of Representatives adjourned until 12:00 o'clock noon, Thursday, February 28, 2008. (Representatives Cabanilla, Morita, M. Oshiro and Souki were excused.)