



STATE OF HAWAII  
CAMPAIGN SPENDING COMMISSION

235 SOUTH BERETANIA STREET, ROOM 300  
HONOLULU, HAWAII 96813

February 24, 2020

TO: The Honorable Sylvia Luke, Chair  
House Committee on Finance

The Honorable Ty J.K. Cullen, Vice Chair  
House Committee on Finance

Members of the House Committee on Finance

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

SUBJECT: **Testimony on H.B. No. 2738, H.D. 1, Relating to Campaign Finance**

Tuesday, February 25, 2020  
11:00 a.m., Conference Room 308

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

This purpose of the bill is to prohibit foreign influence on state governance by (1) prohibiting foreign nationals and foreign corporations from making independent expenditures,<sup>1</sup> (2) requiring corporations that contribute or expend funds in a State election to file a statement of certification with the Chief Election Officer regarding their status as a foreign corporation, and (3) require noncandidate committees to obtain a statement of certification from top contributors that the funds used by the top contributors were not derived from a foreign corporation.

Section 3 of the bill amends subsection (b) of Hawaii Revised Statutes §11-356 (page 5, lines 11-12) by replacing "A **foreign owned domestic corporation** may make contributions . . ." with "A **foreign corporation** may make a contribution . . ."<sup>2</sup> This amendment does not make sense. Although the amendment to the subsection states that a foreign corporation may make a contribution, paragraph (1) conditions the foreign corporation's contribution on the fact that "no foreign national or foreign corporation participated in the foreign corporation's election-related activities, including decisions concerning contributions, . . ." Thus, a foreign corporation, could

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<sup>1</sup> Foreign nationals and foreign corporations are already prohibited from making contributions. Hawaii Revised Statutes §11-356.

<sup>2</sup> Emphases added.

not make a contribution since the foreign corporation itself would necessarily be involved with the decision to contribute. The Commission recommends that this Committee restore the language that allows a “foreign owned domestic corporation” to make contributions, under limited circumstances.

Also, since the responsibility for enforcement of the amendments proposed by the bill falls upon the Commission, rather than the Office of Elections, the Commission believes that the statement of certification required by Section 3 of the bill (page 6, line 7-8) should be filed with the Commission, instead of the Chief Election Officer. The Commission defers to the Department of the Attorney General for any constitutional implications this bill may have.

Statement Before The  
**HOUSE COMMITTEE ON FINANCE**  
Tuesday, February 25, 2020  
11:00 AM  
State Capitol, Conference Room 308

in consideration of  
**HB 2738, HD1**  
**RELATING TO CAMPAIGN FINANCE.**

Chair LUKE, Vice Chair CULLEN, and Members of the House Finance Committee

Common Cause Hawaii supports HB 2738, HD1, which (1) prohibits foreign nationals and foreign corporations from making independent expenditures, (2) requires every corporation that contributes or expends funds in a state election to file a statement of certification regarding its limited foreign influence, and (3) requires noncandidate committees making only independent expenditures to obtain a statement of certification from each top contributor required to be listed in an advertisement.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to reforming government and strengthening democracy through improving our campaign finance system with laws that amplify the voices of everyday Americans by requiring strong disclosures and making sure everyone plays by the same commonsense rules.

Foreign nationals are prohibited from making contributions, donations or expenditures in connection with any election, including state and local elections. 52 U.S.C. § 30121. Additionally, foreign nationals may not donate to noncandidate committees or fund electioneering communications. *Id.* Foreign nationals are defined as foreign governments, foreign political parties, foreign corporations, foreign associations, foreign partnerships, and individuals with foreign citizenship unless they have “green cards” indicating they have been lawfully admitted for permanent residence. 22 U.S.C. § 611(b).

Common Cause Hawaii supports HB 2738, HD1’s prohibition on foreign national’s and foreign corporation’s making independent expenditures in Hawaii’s elections.

HB 2738, HD1, however, further provides, on pages 6 and 7, that foreign corporations may make contributions to or an expenditure on behalf of a candidate, candidate committee, or a noncandidate committee, pursuant to certain exceptions. Domestic subsidiaries of foreign corporations may contribute to non-candidate committees only so long as the foreign parent does not finance the non-candidate committee’s activities through the subsidiary and no individual foreign national participates in the operation of the non-candidate committee or makes any decisions regarding its contributions or expenditures. These exceptions to permit domestic subsidiaries of foreign corporations to establish political action committees, see <https://www.fec.gov/updates/foreign-nationals/>, could swallow the rule to prevent foreign corporations from influencing our elections.

Common Cause Hawaii supports HB 2738, HD1's disclosure requirements of corporations, which are found on pages 6-7 Section 3 of the bill. These disclosure requirements will assist with transparency in our elections, allow people to know who/what is funding which candidates, and assist with limiting the influence of foreign corporate spending in state elections permitted by the PAC exceptions. We suggest that the same disclosures may be dual filed with both the Chief Election Officer and the Hawaii Campaign Spending Commission (HCSC), as the HCSC has jurisdiction over campaign finance matters.

Thank you for the opportunity to testify in support of HB 2738, HD1. If you have further questions of me, please contact me at [sma@commoncause.org](mailto:sma@commoncause.org).

Very respectfully yours,

Sandy Ma  
Executive Director, Common Cause Hawaii





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COMMITTEE ON FINANCE  
TUESDAY, 2/25/20, 11 AM, Room No. 308

HB2738 HD1 RELATING TO CAMPAIGN FINANCE

**TESTIMONY**

Beppie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chair Luke, Vice-Chair Cullen, and Committee Members:

**The League of Women Voters of Hawaii supports and suggests clarification for HB2738 HD1 which intends to prohibit foreign nationals and corporations from influencing elections in Hawaii.**

We have seen in recent national elections actions by foreign governments to influence the outcome of elections. These actions were not easily attributable to the foreign governments who engaged in them. HB2738 HD1 makes three sensible changes which together provide a stronger defense against foreign interference than current law.

**Clarification suggested:** In Section 3, pp. 5-6, allows a foreign corporation to contribute to “a candidate, candidate committee, or noncandidate committee if no foreign national or foreign corporation participated in the foreign corporation’s election-related activities, including decisions concerning contributions, expenditures, or the administration of a candidate committee or noncandidate committee...”

When I read this, it seems a condition impossible to meet: If a foreign corporation contributes to a candidate, for example, how is it possible that no foreign corporation participated in that foreign corporation’s election-related activities? It reads to me like an oxymoron.

Probably I am not understanding the bill’s intent. In that case I suggest this section be re-worded for clarity.

HB2738 HD1 is, however, a timely and appropriate response to a new reality which could seriously compromise our democracy. Thank you for the opportunity to submit testimony.



Josh Frost - President • Patrick Shea - Treasurer • Kristin Hamada  
Nelson Ho • Summer Starr

Tuesday, February 25, 2020

Relating to Campaign Finance  
Testifying in Support

Aloha Chair and members of the committee,

The Pono Hawai'i Initiative (PHI) **supports HB2738, HD1 Relating to Campaign Finance**, which prohibits foreign nationals and foreign corporations from making independent expenditures in connection with any elections, including state and local elections.

Foreign nationals are defined as foreign governments and should not be involved in our elections. The measure does allow for foreign corporations to make contributions or expenditures on behalf of the candidate with certain restrictions and requires disclosure to ensure transparency.

For all these reasons, we urge you to vote in favor of this measure.

Mahalo for the opportunity,  
Gary Hooser  
Executive Director  
Pono Hawai'i Initiative

**HB-2738-HD-1**

Submitted on: 2/22/2020 4:53:52 PM

Testimony for FIN on 2/25/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Best	Individual	Support	No

Comments:

Disclosure allows for more transparency

**HB-2738-HD-1**

Submitted on: 2/23/2020 10:57:06 AM

Testimony for FIN on 2/25/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake	Individual	Support	No

## Comments:

Dear Chair Luke and Members of the Committee on Finance,

I am writing in support of HB2738.

- Foreign nationals are prohibited from making contributions, donations or expenditures in connection with any election, including state and local elections. 52 U.S.C. § 30121. Additionally, foreign nationals may not donate to noncandidate committees or fund electioneering communications. *Id.* Foreign nationals are defined as foreign governments, foreign political parties, foreign corporations, foreign associations, foreign partnerships, and individuals with foreign citizenship unless they have “green cards” indicating they have been lawfully admitted for permanent residence. 22 U.S.C. § 611(b).
- Common Cause Hawaii supports HB 2738, HD1’s prohibition on foreign national’s and foreign corporation’s making independent expenditures in Hawaii’s elections.
- HB 2738, HD1, however, further provides, on pages 6 and 7, that foreign corporations may make contributions to or an expenditure on behalf of a candidate, candidate committee, or a noncandidate committee, pursuant to certain exceptions. Domestic subsidiaries of foreign corporations may contribute to non-candidate committees only so long as the foreign parent does not finance the non-candidate committee’s activities through the subsidiary and no individual foreign national participates in the operation of the non-candidate committee or makes any decisions regarding its contributions or expenditures. This exception to permit domestic subsidiaries of foreign corporations to establish political action committees, see <https://www.fec.gov/updates/foreign-nationals/>, could swallow the rule to prevent foreign corporations from influencing our elections.



- Common Cause Hawaii supports HB 2738, HD1's disclosure requirement of corporations, which is found on pages 6-7 of the bill. This disclosure requirement will assist with transparency in our elections and allow people to know who/what is funding which candidates and assist with limiting the influence of foreign corporate spending in state elections.

Thank you for the opportunity to testify in support of HB 2738, HD1, and please pass HB 2738, HD1 out of your Committee.

Mahalo,

Caroline Kunitake

**HB-2738-HD-1**

Submitted on: 2/23/2020 6:44:54 PM

Testimony for FIN on 2/25/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
tlaloc tokuda	Individual	Support	No

Comments:

Dear **House Finance Chair, Vice Chair and committee,**

1. [HB2738](#) Prohibits foreign nationals and foreign corporations from making independent expenditures. I **SUPPORT the bill!**
- Foreign nationals are prohibited from making contributions, donations or expenditures in connection with any election, including state and local elections. 52 U.S.C. § 30121. Additionally, foreign nationals may not donate to noncandidate committees or fund electioneering communications. *Id.* Foreign nationals are defined as foreign governments, foreign political parties, foreign corporations, foreign associations, foreign partnerships, and individuals with foreign citizenship unless they have “green cards” indicating they have been lawfully admitted for permanent residence. 22 U.S.C. § 611(b).
  - Common Cause Hawaii supports HB 2738, HD1’s prohibition on foreign national’s and foreign corporation’s making independent expenditures in Hawaii’s elections.
  - HB 2738, HD1, however, further provides, on pages 6 and 7, that foreign corporations may make contributions to or an expenditure on behalf of a candidate, candidate committee, or a noncandidate committee, pursuant to certain exceptions. Domestic subsidiaries of foreign corporations may contribute to non-candidate committees only so long as the foreign parent does not finance the non-candidate committee’s activities through the subsidiary and no individual foreign national participates in the operation of the non-candidate committee or makes any decisions regarding its contributions or expenditures. This exception to permit domestic subsidiaries of foreign corporations to establish political action committees, see <https://www.fec.gov/updates/foreign-nationals/>, could swallow the rule to prevent foreign corporations from influencing our elections.

- Common Cause Hawaii supports HB 2738, HD1's disclosure requirement of corporations, which is found on pages 6-7 of the bill. This disclosure requirement will assist with transparency in our elections and allow people to know who/what is funding which candidates and assist with limiting the influence of foreign corporate spending in state elections.
- Thank you for the opportunity to testify in support of HB 2738, HD1, and please pass HB 2738, HD1 out of your Committee.

Tlaloc Tokuda

Kailua Kona, HI 96740

**HB-2738-HD-1**

Submitted on: 2/24/2020 8:10:48 AM

Testimony for FIN on 2/25/2020 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Golojuch Jr	Individual	Support	No

Comments:

**HB-2738-HD-1**

Submitted on: 2/24/2020 11:28:24 AM

Testimony for FIN on 2/25/2020 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Edward B Hanel Jr	Individual	Support	No

Comments:

Support transparency in our elections. Allow voters to know about funding for candidates and issues while limiting the influence of foreign corporate spending in state elections.

Concur with CommonCause Hawaii's comments on HB 2738

**HB-2738-HD-1**

Submitted on: 2/24/2020 12:06:48 PM

Testimony for FIN on 2/25/2020 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Fred Delosantos	Individual	Oppose	No

## Comments:

HB2738 should be expanded to prohibit out-of-state campaign expenditures. Wealthy folks from out-of-state seem to think that local elections can now be bought. Out-of-state billionaires are now routinely purchasing local elections to transform America to their personal way of thinking. This needs to be prohibited. Local elections should be for locals, us Hawaii residents, to decide, without the politicians pockets being lined by unscrupulous outsiders in exchange for future "favours" at the expense of their constituents. Please oppose HB2738 unless it is modified to also prohibit out-of-state campaign expenditures for local (e.g. State, County) elections.