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## A BILL FOR AN ACT

RELATING TO CAMPAIGN SPENDING.

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

1           SECTION 1. The legislature finds that dark money is  
2 defined as funds raised for the purpose of influencing elections  
3 by nonprofit organizations that are not required to disclose the  
4 identities of their donors. Dark money sometimes comes from  
5 Internal Revenue Code 501(c)(4) organizations that are not  
6 required to disclose the identity of their donors. By doing so,  
7 there is a lack of transparency that fails to inform the public  
8 on who is trying to influence an election. Although dark money  
9 can come in through different tax-exempt organizations, this Act  
10 attempts to address one area of dark money through the 501(c)(4)  
11 organizations.

12           The legislature further finds that Internal Revenue Code  
13 501(c)(4) organizations are tax-exempt as a social welfare  
14 organization and must not be organized for profit and must be  
15 operated exclusively to promote social welfare. The Internal  
16 Revenue Service describes "exclusively promoting social welfare"  
17 as operating primarily to further the common good and general



1 welfare of the people of the community, such as by bringing  
2 about civic betterment and social improvements. The promotion  
3 of social welfare does not include direct or indirect  
4 participation or intervention in political campaigns on behalf  
5 of or in opposition to any candidate for public office.

6       However, the Internal Revenue Code states that social  
7 welfare organizations may engage in some political activities,  
8 so long as that is not their primary activity. Arguably, this  
9 means that an organization can use 49.99 per cent of its funds  
10 to engage in political activity and still maintain its tax-  
11 exempt status, all while hiding their donor's involvement in  
12 political campaigning. Also, the Internal Revenue Service is  
13 currently not authorized to use any funds to investigate these  
14 activities in order to ensure compliance. This allows  
15 501(c)(4)s to engage in and spend unregulated amounts of money  
16 on political activity without any consequences or oversight,  
17 conceivably well above the political activity percentage  
18 threshold allowed.

19       While the State does not have the authority to revoke  
20 federal tax-exempt status, the State should be given oversight  
21 into 501(c)(4) organizations that operate in Hawaii to ensure



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1 that the majority of its operations and spending are focused on  
2 social welfare and not political activities. The State may then  
3 submit its findings to the Internal Revenue Service and to the  
4 public.

5 The purpose of this Act is to ultimately provide more  
6 transparency in elections and build trust between the public and  
7 elected officials through transparent information by requiring  
8 any organization, association, party, or individual that is  
9 financially involved in the political process to file a  
10 financial disclosure with the campaign spending commission and  
11 removing an exemption to do so.

12 SECTION 2. Section 11-302, Hawaii Revised Statutes, is  
13 amended by amending the definition of "noncandidate committee"  
14 to read as follows:

15 "Noncandidate committee" means an organization,  
16 association, party, or individual that [~~has the purpose of~~  
17 ~~making or receiving~~] makes or receives contributions, [~~making~~]  
18 makes expenditures, or [~~incurring~~] incurs financial obligations  
19 to influence the nomination for election, or the election, of  
20 any candidate to office, or for or against any question or issue



1 on the ballot; provided that a noncandidate committee does not  
2 include:

- 3 (1) A candidate committee;
- 4 (2) Any individual making a contribution or making an  
5 expenditure of the individual's own funds or anything  
6 of value that the individual originally acquired for  
7 the individual's own use and not for the purpose of  
8 evading any provision of this part; or
- 9 (3) Any organization that raises or expends funds for the  
10 sole purpose of producing and disseminating  
11 informational or educational communications that are  
12 not made to influence the outcome of an election,  
13 question, or issue on a ballot."

14 SECTION 3. Section 11-335, Hawaii Revised Statutes, is  
15 amended by amending subsection (b) to read as follows:

16 "(b) Schedules filed with the reports shall include the  
17 following additional information:

- 18 (1) The amount and date of deposit of each contribution  
19 received and the name, address, occupation, and  
20 employer of each contributor making a contribution



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1 aggregating more than \$100 during an election period,  
2 which was not previously reported; provided that if:

3 (A) All the information is not on file, the  
4 contribution shall be returned to the contributor  
5 within thirty days of deposit; and

6 (B) A noncandidate committee making only independent  
7 expenditures receives a contribution of more than  
8 \$10,000 in the aggregate in an election period  
9 from an entity other than an individual, for-  
10 profit business entity, or labor union, then the  
11 schedule shall include:

12 (i) The internet address where the contributing  
13 entity's disclosure report can be publicly  
14 accessed, if the contributing entity is  
15 subject to state or federal disclosure  
16 reporting requirements regarding the source  
17 of the contributing entity's funds; and

18 (ii) The name, address, occupation, and employer  
19 of each funding source that contributed \$100  
20 or more in the aggregate in an election  
21 period to that contributing entity[~~;~~ ~~or~~



1           ~~(iii) An acknowledgment that the contributing~~  
2           ~~entity is not subject to any state or~~  
3           ~~federal disclosure reporting requirements~~  
4           ~~regarding the source of the contributing~~  
5           ~~entity's funds];~~

6           (2) The amount and date of each contribution made and the  
7           name and address of the candidate, candidate  
8           committee, or noncandidate committee to which the  
9           contribution was made;

10          (3) All expenditures, including the name and address of  
11          each payee and the amount, date, and purpose of each  
12          expenditure; provided that:

13           (A) Expenditures for advertisements or electioneering  
14           communications shall include the names of the  
15           candidates supported, opposed, or clearly  
16           identified;

17           (B) Expenditures for consultants, advertising  
18           agencies and similar firms, credit card payments,  
19           salaries, and candidate reimbursements shall be  
20           itemized to permit a reasonable person to



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- 1                   determine the ultimate intended recipient of the  
2                   expenditure and its purpose;
- 3           (C)   Independent expenditures shall include the name  
4                   of any candidate supported, opposed, or clearly  
5                   identified; and
- 6           (D)   The purpose of an independent expenditure shall  
7                   include the name of the candidate who is  
8                   supported or opposed by the expenditure, and  
9                   whether the expenditure supports or opposes the  
10                  candidate;
- 11          (4)   For noncandidate committees making only independent  
12                  expenditures, certification that no expenditures have  
13                  been coordinated with a candidate, candidate  
14                  committee, or any agent of a candidate or candidate  
15                  committee;
- 16          (5)   The amount, date of deposit, and description of other  
17                  receipts and the name and address of the source of  
18                  each of the other receipts;
- 19          (6)   A description of each durable asset, the date of  
20                  acquisition, value at the time of acquisition, and the



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1 name and address of the vendor or contributor of the  
2 asset; and

3 (7) The date of disposition of a durable asset, value at  
4 the time of disposition, method of disposition, and  
5 name and address of the person receiving the asset."

6 SECTION 4. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval.

9

INTRODUCED BY: *Lisakita*  
JAN 26 2021



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**Report Title:**

Campaign Spending Commission; Noncandidate Committees

**Description:**

Amends the definition of noncandidate committee and the contents required in noncandidate committee reports filed with the campaign spending commission.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

