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# A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO THE HAWAII STATE CONSTITUTION  
REGARDING THE FREEDOM OF SPEECH.

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

1       SECTION 1. The legislature finds that the United States  
2 Supreme Court's decision in *Citizens United v. Federal Election*  
3 *Commission*, 558 U.S. 310 (2010), reversed long-standing campaign  
4 finance restrictions and designated corporate spending on  
5 elections as free speech protected under the First Amendment of  
6 the Constitution of the United States. The legislature also  
7 finds that the United States Supreme Court's decision in *Buckley*  
8 *v. Valeo*, 424 U.S. 1 (1976), provided protection under the  
9 United States Constitution to the expenditure of money to  
10 influence policy. The *Citizens United* decision removed any  
11 limits on the amount of money that corporations, special  
12 interest groups, and political action committees (PACs) could  
13 spend on an election. The legislature further finds that the  
14 decisions in *Citizens United* and *Buckley* are a serious threat to  
15 our democracy. Corporations enjoy various advantages, including  
16 limited liability, perpetual life, and favorable treatment in



1 the accumulation and distribution of assets, which allow them to  
2 amass and spend an extraordinary amount of money on political  
3 messages that often have far greater reach and influence than  
4 messages from individuals. During the thirteen years since the  
5 *Citizens United* decision, there has been a massive increase in  
6 political spending by corporations, special interest groups, and  
7 PACs, dramatically expanding their already outsized political  
8 influence on election outcomes and policy decisions.

9 The legislature also finds that the power to amend state  
10 constitutions rests with the people of each state, and the  
11 legislature believes it is critical that the State express its  
12 disapproval of the *Citizens United* and *Buckley* decisions. At  
13 least twenty states, including Hawaii in 2016, have taken  
14 legislative action urging Congress to pass a proposed  
15 constitutional amendment that overturns the decision in *Citizens*  
16 *United*; however, Congress has failed to take any action and  
17 appears unlikely to do so.

18 The legislature acknowledges that as long as *Citizens*  
19 *United* and *Buckley* are binding law, this Act will have no effect  
20 on the Constitution of the United States. United States Supreme  
21 Court decisions can be overturned, as demonstrated by the



1 Court's decision to override the fifty-year-old *Roe v. Wade*  
2 decision. Therefore, a state constitutional provision, while  
3 not binding today, may nonetheless be valuable in the future.

4 Accordingly, the purpose of this Act is to propose an  
5 amendment to article I, section 4, of the Hawaii State  
6 Constitution to provide that the expenditure of money to  
7 influence elections is not a form of speech protected under the  
8 Hawaii State Constitution.

9 SECTION 2. Article I, section 4, of the Constitution of  
10 the State of Hawaii is amended to read as follows:

11 "FREEDOM OF RELIGION, SPEECH, PRESS,  
12 ASSEMBLY AND PETITION

13 **Section 4.** No law shall be enacted respecting an  
14 establishment of religion, or prohibiting the free exercise  
15 thereof, or abridging the freedom of speech or of the press or  
16 the right of the people peaceably to assemble and to petition  
17 the government for a redress of grievances.

18 The freedom of speech shall not include the expenditure of  
19 money to influence elections."

20 SECTION 3. The question to be printed on the ballot shall  
21 be as follows:



1           "Shall the Hawaii State Constitution be amended to  
2           state that freedom of speech protections under the Hawaii  
3           State Constitution do not include the expenditure of money  
4           to influence elections?"

5           SECTION 4. New constitutional material is underscored.

6           SECTION 5. This amendment shall take effect on July 1,  
7           3000; provided that this amendment shall take effect upon  
8           compliance with article XVII, section 3, of the Constitution of  
9           the State of Hawaii.



**Report Title:**

Constitutional Amendment; Freedom of Speech; Monetary  
Expenditures to Influence Elections

**Description:**

Proposes an amendment to the Hawaii State Constitution to  
provide that freedom of speech protected under the Hawaii State  
Constitution does not include the expenditure of money to  
influence elections. Effective 7/1/3000. (HD1)

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