

A Bill for an Act Relating to Elections.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended as follows:

(a) Section 11-1, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-1 Definitions. Whenever used in this title, the words and phrases in this title shall, unless the same is inconsistent with the context, be construed as follows:

“Ballot,” a ballot including an absentee ballot is a written or printed, or partly written and partly printed paper or papers containing the names of persons to be voted for, the office to be filled, and the questions or issues to be voted on. A ballot may consist of one or more cards or pieces of paper depending on the number of offices, candidates to be elected thereto, questions or issues to be voted on, and the voting system in use. It shall also include the face of the mechanical voting machine when arranged with cardboard or other material within the ballot frames, containing the names of the candidates and questions to be voted on.

“Chief election officer,” the lieutenant governor as set forth in section 11-2.

“Clerk,” the county clerks of the respective counties.

“County,” the counties of Hawaii, Maui, Kauai, and the city and county of Honolulu, as the context may require. For the purposes of this title, the county of Kalawao shall be deemed to be included in the county of Maui.

“Election,” all elections, primary, special primary, general, special general, special, or county, unless otherwise specifically stated.

“Election officials,” precinct officials and other persons designated as officials by the chief election officer.

“Office,” an elective public office.

“Political party” or “party,” a political party qualified under part V of this Chapter.

“Precinct,” the smallest political subdivision established by law.

“Primary,” a preliminary election in which the voters nominate candidates for office as provided for in chapter 12.

“Special election,” any single election required by law to be held to fill a vacancy when not preceded by an election to nominate those candidates whose names appear on the special election ballot.

“Special primary election” and “special general election,” elections held only (a) whenever any vacancy occurs in the offices of United States senator, United States representative, state senator, or state representative because of failure to elect a person at an uncontested general election or (b) as specified in county charters.

“Voter,” any person duly registered to vote.

“Voting system,” the use of paper ballots, electronic ballot cards, vot-

ing machines, or any system by which votes are cast and counted.”

(b) Section 11-3, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-3 Application of chapter. This chapter shall apply to all elections, primary, special primary, general, special general, special, or county, held in the State, under all voting systems used within the State, so far as applicable and not inconsistent herewith.”

(c) Section 11-5, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-5 Employees. The chief election officer or county clerk may employ precinct officials and such other temporary election employees as he may find necessary, none of whom shall be subject to the civil service or classification laws of the State or be required to become members of the employees retirement system.”

(d) Section 11-12, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-12 Age; place of registering. Every person who has reached the age of eighteen years; or who will have reached such age prior to the date of the next election, and is otherwise qualified to register may do so in the precinct in which he resides. No person shall register or vote in any other precinct than that in which he resides except as provided in section 11-21.”

(e) Section 11-14, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-14 General county register. The clerk of each county shall register all the voters in his county in the general county register. The register shall contain the information required by section 11-15. The voter’s name shall be maintained alphabetically in the register and be capable of segregation by precinct and representative district. The clerk shall keep the original or photographic copy of the affidavit of registration required by section 11-15. The general county register shall, at all times during business hours, be open to public inspection, and shall be a public record.

In all primary and special primary elections held in 1970 and subsequently the clerk shall include in the general county register information to show the primary or special primary ballot selected by each of the voters at the next preceding primary or special primary election, or the registered change of primary or special primary ballot selection by any voter. Newly registered voters, those who have failed to select a partisan or nonpartisan primary or special primary ballot since the 1968 primary which shall include those who voted in a separate ballot for the board of education only, those who voted for a disqualified party, and those who reregistered after having their names removed from the register shall have no such information recorded.”

(f) Section 11-15, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-15 Application to register. Any person qualified to and desiring to register as a voter in any county, may present himself at any time during

business hours to the clerk of the county, then and there to be examined under oath as to his qualifications as a voter. Each applicant shall make and subscribe to an application in the form of an affidavit.

The affidavit shall contain the following information:

- (1) Name;
- (2) Social security number, if any;
- (3) Date of birth;
- (4) Age;
- (5) Residence;
- (6) Place of current employment, if any;
- (7) That the residence stated in the affidavit is not simply because of the person's presence in the State but that the residence was acquired with the intent to make Hawaii the person's legal residence with all the accompanying obligations therein;
- (8) That the person is a citizen.

The applicant shall swear to the truth of the allegations in his application before the clerk, who is authorized to administer oaths. Unless contested by a qualified voter, the clerk may accept, as prima facie evidence, the allegation of the applicant in information required in the affidavit in item 7. In any other case where the clerk shall so desire or believe the same to be expedient, he may demand that the applicant furnish substantiating evidence to the allegations of his application.

If the clerk is satisfied that the applicant is entitled to be registered as a voter, the applicant shall then affix his signature to the affidavit and the clerk shall affix his signature; or the clerk shall enter "Unable to sign" and the reason in the space for the applicant's signature. A voter having once been registered shall not be required to register again for any succeeding election, except as hereinafter provided. The affidavits so approved or accepted by the clerk shall thereupon be numbered appropriately, filed by the clerk and kept in some convenient place so as to be open to public inspection and examination.

The clerk may designate a subordinate or subordinates to act in his place and stead in all matters covered by this section."

(g) Section 11-17, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-17 Removal from register upon failure to vote; reregistration. The clerk shall, not later than 4:30 p.m. on the sixtieth day after every general election, remove the name of any registered voter failing to vote at the election if such voter also failed to vote at the preceding primary election. For this purpose "to vote" shall mean the depositing of the ballot in the ballot box whether such ballot be blank or later rejected for any reason. In the case of voting machines "to vote" shall mean the voter has activated the proper mechanism and fed his vote into the machine. In the case of absentees and of voting by mail by voters in remote areas "to vote" shall mean seasonably mailing the absentee ballot to the county clerk whether or not such ballot was counted.

Any voter whose name has been removed from the register may at any time prior to the closing of the register, as provided in section 11-24, have his

name restored in the register by presenting himself to the clerk and reregistering pursuant to section 11-15, or by making application by mail or otherwise pursuant to procedures established by the clerk. The clerk shall compare the signature with the signature of the voter as previously registered, and if found by him not to be similar, he may require further proof. The names of all such voters shall be reentered in the register.”

(h) Section 11-18, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-18 Transfer of registration on removal from one precinct to another in same county. A registered voter who changes his residence from one precinct to another shall notify the clerk and change his registration to the proper precinct; provided, that no such change of registration shall be allowed or required after the close of registration for an election.”

(i) Section 11-19, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-19 Registration from one county to another. Whenever any person who has registered as a voter in any county removes to and desires to register in some other county, he shall apply to the clerk of the county in which he desires to be registered. Thereupon such clerk, if the person applying is legally qualified to register, shall accept such registration and shall immediately thereafter forward to the clerk of the county in which the person was formerly registered, a notice that the name of the registered voter is to be removed from the general county register of that county.”

(j) Section 11-20, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-20 Transfers; name changes; initiated by clerk. The clerks shall use all reliable and pertinent information to keep the general register up to date. The county clerks may request information from, but are not limited to, the following sources:

- (1) The office of the lieutenant governor for any change of name;
- (2) Courts for changes of name, divorces, separations, or other changes affecting voter status;
- (3) The department of health for marriages, deaths, or other changes affecting voter status;
- (4) Utility companies concerning commencement or changes of service;
- (5) Residential apartments, cooperative apartments, and condominiums as to changes of occupancy.

In requesting such information the clerk shall give reasonable notice and time for furnishing the information.

If the clerk has evidence indicating that a voter’s registration should be transferred, then not later than 4:30 p.m. on the ninetieth day prior to the primary the clerk shall notify the person by first-class mail and not later than 4:30 p.m. on the third day thereafter publish in a newspaper of general circulation notice of intent to transfer registration. Notice by mail shall be sent to the address shown on the current voter list and any alleged new address. The notifications shall include:

- (1) Any evidence that the clerk may have indicating why a transfer or

change should be made;

- (2) The residence, precinct, and district of the voter according to current registration lists;
- (3) The alleged new address, precinct, and district;
- (4) A reply form which shall contain a space for the voter's agreement or objection to the transfer and the reasons for the objection;
- (5) Notice that unless the completed form is returned not later than 4:30 p.m. on the fifteenth day after mailing the voter shall be subject to challenge at the polls under the terms of section 11-25 on the basis of not being registered in the precinct where he resides.

If no response is received by the clerk by 4:30 p.m. on the fifteenth day after mailing, a second notification shall be made not later than 4:30 p.m. on the sixtieth day prior to the primary, by telephone or personal contact. A record shall be maintained of all the phone calls or attempted personal contacts noting the date, time, person calling, person called, and reply received.

If, on the basis of the evidence available the clerk has good reason to believe that the voter does actually reside at some address other than the one carried on the registration list, the clerk shall transfer the voter to such new address. A list of those transferred, and the precinct to which they were moved, will be available at the old precinct on election day. A voter may contest such transfer on or before election day by presenting evidence that he actually resides at the old address which, if found valid by the clerk or the board of registration, shall entitle the voter to be returned to the old voting list by executive order.

A list of all voters with questionable addresses who fail to respond to notification attempts of the clerk, but who have not been transferred, shall be posted at the precinct wherein he is registered on election day and shall be made available to the public not later than 4:30 p.m. on the forty-fifth day prior to the primary election."

(k) Section 11-22, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-22 Changing register; correction of errors. The clerk shall correct the register if at any time it shall be manifest to him that the name of a person registered has been accidentally misspelled, or that he has been misnamed therein, or that he has been accidentally registered under the wrong precinct.

In any case where the clerk refuses to correct the register the person may appeal to the board of registration and the register shall be changed upon a written order of the board of registration, setting forth the reasons for the change. The order shall be directed to the clerk or to the precinct officials of the election precinct where the voter is entitled to vote if the register has been closed. The precinct officials shall thereupon correct the list of voters furnished them according to the terms of the order, noting on the list the reasons for the correction, and shall send the original order to the clerk as soon as may be possible after the close of the polls. The clerk, upon receipt of any order from the board of registration or from the precinct officials, as the case may be, shall correct the register according to the terms of the order, making on the register a reference to the order."

(l) Section 11-24, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-24 Closing register; list of voters.

At 4:30 p.m. on the thirtieth day prior to each primary, special primary or special election (but if such day is a Saturday, Sunday, or holiday then at 4:30 p.m. on the first working day immediately preceding), the general county register shall be closed to registration for persons seeking to vote at such a primary, special primary or special election and remain closed to such registration until after the election, subject to change only as provided in sections 11-21, 11-22, 11-25, 11-26, and this section.

Notwithstanding the closing of the register for registration to vote at the primary or special primary election, the register shall remain open for the registration of persons seeking to vote at the general or special general election, until 4:30 p.m. on the twenty-sixth day prior to the general or special general election (but if such day is a Saturday, Sunday, or holiday then at 4:30 p.m. on the first working day immediately preceding), at the end of which period the general county register shall be closed to registration and remain closed until after the general or special general election next following, subject to change only as provided in sections 11-21, 11-22, 11-25, and 11-26.

Immediately upon the closing of the general county register, the clerk shall proceed to prepare a list of all registered voters in each precinct, separately. The list shall contain, in alphabetical order, without designation of the race or age of voters, the names of all voters so registered in each precinct, and the residence of each. In primary and special primary elections the list shall include the party affiliation or nonpartisanship of the voter, if so contained in the general county register. The list shall be available for inspection at the office of the county clerk prior to election day. On election day the election precinct officials shall post the list at the precinct polling place.”

(m) Section 11-25, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-25 Challenge by voters; grounds; procedure.

(a) Challenging prior to election day. Any registered voter may, for any cause not previously decided by the board of registration or the supreme court in respect to the same person, challenge the right of that person to be or to remain registered as a voter in any precinct. The challenge shall be in writing, setting forth the grounds upon which it is based, and be signed by the person making the challenge. The challenge shall be delivered to the clerk who shall forthwith serve notice thereof on the person challenged. The clerk shall as soon as possible, investigate and rule on the challenge.

(b) Challenging on election day. Any voter rightfully in the polling place may challenge the right of any person, presenting himself to the precinct officials to vote. The challenge shall be on the grounds that the voter is not the person he alleges himself to be, that the voter is not entitled to vote because he refuses to state his party preference or nonpartisanship except where he desires to vote only for the board of education. No other or further challenge shall be allowed. The challenge shall be considered and decided immediately by the precinct officials and the ruling announced.

(c) If neither the challenger nor the challenged voter shall appeal the ruling of the clerk or the precinct officials, then the voter shall either be allowed to vote or be prevented from voting in accordance with the ruling. If an appeal is taken to the board of registration, the challenged voter shall be allowed to vote; provided that his ballot is placed in a sealed envelope to be later counted or rejected in accordance with the ruling on appeal. The chief election officer shall promulgate rules and regulations in accordance with chapter 91 to safeguard the secrecy of the challenged voter's ballot."

(n) Section 11-26, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-26 Appeal from ruling on challenge; or failure of clerk to act. In cases where the clerk or the precinct officials ruled on a challenge or the clerk refuses to register an applicant, or refuses to change the register under section 11-22, the person ruled against may appeal from the ruling to the board of registration of his county.

The several boards of registration shall sit in the county seats of their respective counties on election day. The boards shall also sit at such other times as the clerk determines within the various representative districts in their respective counties to hear appeals, provided there are any, from the voters registered within such districts. The boards shall continue their sittings until all appeals have been heard.

Reasonable notices of the sitting of the boards shall be given by publication in newspapers of general circulation in their respective districts or counties. If the appeal is sustained, the board shall immediately certify that finding to the clerk, who shall thereupon alter the register to correspond to the findings of the board, and when necessary, the clerk shall notify the precinct officials of the change in the register."

(o) Section 11-51, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-51 Appeal from board to supreme court. Any affected person, political party, or any of the county clerks, may, not later than 4:30 p.m. on the tenth day after the decision of the board of registration, appeal to the supreme court in the manner provided by law for civil appeals to the supreme court from the circuit court, or in such manner as may be provided by law."

(p) Section 11-62, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-62 Formation of new parties; petition. Any group of persons hereafter desiring to form a new political party in the State shall file with the chief election officer a petition as hereinafter provided. The petition for the formation of a new political party shall:

- (1) Be filed not later than 4:30 p.m. on the one hundred fiftieth day prior to the next primary;
- (2) Declare as concisely as may be the intention of signers thereof to form such new political party in the State;
- (3) Contain the signatures of not less than one per cent of the total registered voters of the State at the time of filing;
- (4) Contain the names and addresses of the officers of the central com-

mittee and of the respective county committees where they exist, of the new political party;

- (5) Be upon the form prescribed and provided by the chief election officer.

The petition shall be subject to hearing under chapter 91, if any objections are raised by the chief election officer or any political party. All objections shall be made not later than 4:30 p.m. on the tenth day after the petition has been filed. If no objections are raised by 4:30 p.m. on the tenth day, the petition shall be deemed approved. If an objection is raised, a decision shall be rendered not later than 4:30 p.m. on the thirtieth day after filing of the petition or not later than 4:30 p.m. on the one hundredth day prior to the primary, whichever shall first occur.

The chief election officer may check the names of any persons on the petition to see that they are registered voters and he may check the validity of their signatures. The petition shall be public information upon filing.”

(q) Section 11-63, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-63 Party rules, amendments to be filed. All existing and new parties must file their rules with the chief election officer not later than 4:30 p.m. on the one hundred fiftieth day prior to the next primary. All amendments shall be filed with the chief election officer not later than 4:30 p.m. on the thirtieth day after their adoption. The rules and amendments shall be duly certified to by an authorized officer of the party and upon filing, the rules and amendments thereto shall be a public record.”

(r) Section 11-64, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-64 Names of party officers to be filed. All parties shall submit to the chief election officer and the respective county clerks not later than 4:30 p.m. on the one hundred twentieth day prior to the next primary, a list of names and addresses of officers of the central committee and of the respective county committees.”

(s) Section 11-65, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-65 Determination of party disqualification; notice of disqualification. Not later than 4:30 p.m. on the one hundred twentieth day after a general election, the chief election officer shall determine which parties were qualified to participate in the last general election, but which have become disqualified to participate in the forthcoming elections. Notice of intention to disqualify shall be served by certified or registered mail on the chairman of the state central committee or in the absence of the chairman, any officer of the central committee of the party, as shown by the records of the chief election officer. In addition, notice of intention to disqualify shall also be given by publication in a newspaper of general circulation.

If an officer of the party whose name is on file with the chief election officer desires a hearing on the notice of intention to disqualify, he shall, not later than 4:30 p.m. on the tenth day after service by mail or not later than

4:30 p.m. on the tenth day after the last day upon which the notice is published in any county, whichever is later, file an affidavit with the chief election officer setting forth facts showing that the political party is not disqualified to participate in any primary election under section 11-61. If the party does not file the affidavit within the time specified, the notice of intention to disqualify shall constitute final disqualification. A party thus disqualified shall have the right to requalify as a new party by following the procedures of section 11-62.”

(t) Section 11-71, Hawaii Revised Statutes, is amended to read as follows:

“PART VI. PRECINCT OFFICIALS AND WATCHERS

Sec. 11-71 Precinct officials; precinct requirements. There shall be not less than three precinct officials for each precinct one of whom shall be the chairman; provided that in precincts where more than one voting unit has been established, there shall be three precinct officials for each unit. The chairman of precinct officials shall have authority in all units of the precinct. The precinct officials of each unit shall have authority on matters affecting their unit and matters affecting the entire precinct.

In all precincts, the chief election officer may assign one or more additional precinct officials.

So far as reasonably practicable, excepting the chairman, not more than fifty per cent of the precinct officials in any precinct shall be of the same political party.”

(u) Section 11-72, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-72 Precinct officials; submission of names and assignment; vacancies. All qualified political parties shall submit names for precinct officials to the chief election officer not later than 4:30 p.m. on the sixtieth day prior to the close of filing for any primary, special primary or special election. All precinct officials shall be able to read and write the English language. If any party shall fail to submit the required names by the above deadline, the chief election officer may fill such positions with available qualified persons. The chief election officer shall make a list of the precinct officials by representative district not later than 4:30 p.m. on the tenth day prior to such election.

In assigning the precinct officials the following criteria shall be followed:

- (1) The precinct officials shall be registered voters of the precinct in which they serve; but if qualified persons in the precinct are not readily available to serve, they may be chosen from without the precinct so long as they reside in the representative district in which the precinct is located.
- (2) The chief election officer may designate more precinct officials than are needed in order to create a pool of qualified precinct officials who may be assigned to fill vacancies or to perform such duties as needed in any precinct in their respective representative districts. If more qualified persons than are needed for a precinct desire to serve in that precinct, service shall be determined by drawing lots.

- (3) No parent, spouse, child, or sibling of a candidate shall be eligible to serve as a precinct official in any precinct in which votes may be cast for the candidate; nor shall any candidate for any elective office be eligible to serve as a precinct official in the same election in which he is a candidate. No candidate who failed of nomination in the primary or special primary election shall be eligible to serve as a precinct official in the general election next following.
- (4) The chairman of the precinct officials shall be of the same party as the governor and shall be the first named precinct official on the list prepared by the chief election officer. The remainder of the precinct officials shall be apportioned as follows:
 - (A) The total votes cast, except those cast for nonpartisan candidates, for all of the following offices which were on the ballot in the next preceding general election shall be divided into the total votes cast for all the candidates of each party for such offices: president and vice president, United States senator, United States representative, governor and lieutenant governor, state senator, state representative, and board of education.
 - (B) In the event that a party's proportion of votes cast exceeds fifty per cent, its share shall be one-half of the precinct officials. The remaining one-half shall be divided among the remaining parties in proportion to their respective total of votes cast for the offices set forth in subdivision (A).
 - (C) In the case of the above division resulting in parties having fractional positions a whole position shall go to the party with the larger number of votes cast.
 - (D) Newly qualified parties may be assigned up to ten per cent of the total positions available at the discretion of the chief election officer.

In case of inability, failure, or refusal of any person so assigned to serve as a precinct official the chief election officer shall, so far as reasonably practicable, appoint a person to fill the vacancy from the same party as that of the person to be replaced. In case of doubt as to the party of a precinct official the chief election officer shall use first, the party membership list; then, the primary registration; then, the person's word for his party affiliation."

(v) Section 11-73, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-73 Instruction of precinct officials. Not later than 4:30 p.m. on the fifth day prior to any election the chief election officer or clerk in county elections shall conduct a school of instruction, if deemed necessary, for persons designated as prospective precinct officials of precincts. They shall notify the precinct officials of the time and place of the school of instruction.

All prospective precinct officials shall attend a school of instruction. The chairman of the precinct officials shall be required to also attend a refresher course before each election. It shall be at the discretion of the chief election officer or the county clerk in county elections to require those precinct officials with previous training to attend a school of instruction prior to each election.

ACT 217

No precinct official shall serve unless he has received instruction and has been certified by the authorized instructor to that effect. This section shall not prevent the assignment of a person who has not received such instruction or such certificate but who is otherwise qualified, to fill a vacancy among precinct officials when a qualified certified person is not available. Periodic recertification shall be required.”

(w) Section 11-74, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-74 Meetings of precinct officials; procedure; oaths.** The chairman of the precinct officials shall preside at all meetings of the precinct officials. Any decision of the precinct officials shall require a majority vote of the precinct officials in the unit or precinct.

In all cases under this title, where duties are to be performed by the chairman of the precinct officials, the duties may be performed by one of the other precinct officials, whenever the chairman is temporarily absent or is otherwise for the time being unable to perform the duties.

Each precinct official may administer any oath in this title provided to be administered by the precinct officials.”

(x) Section 11-75, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-75 Duties of precinct officials.** The duties of the precinct officials shall vary with the voting system in use in the precinct. The duties for the particular system shall be assigned by the chief election officer by regulations adopted for such purpose.”

(y) Section 11-76, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-76 Compensation.** (a) Electronic ballot and voting machine elections. Precinct officials, other than the chairman, shall be paid \$32 for each election. The chairman of the precinct officials for each precinct shall be paid \$45 for each election for a single-unit precinct and \$10 more per unit for larger precincts.

(b) Paper ballot elections. The chairman of the precinct officials and the precinct officials shall receive the same base amounts as in subsection (a). In addition, all precinct officials shall be paid \$1 for each three hundred ballots or portion thereof cast at that precinct.”

(z) Section 11-77, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-77 Appointment of watchers; service.** (a) Each qualified political party shall be entitled to appoint no more than one watcher in each precinct including absentee precincts in which the candidates of such party are on the ballot. Each party shall submit its list of watchers not later than 4:30 p.m. on the tenth day prior to any election. All watchers shall serve without expense to the State or county. All watchers so appointed shall be registered voters. No person shall serve as a watcher who could not qualify to serve as a precinct official under section 11-72(3).

(b) Each watcher shall be provided with identification from the chief

election officer, or by the clerk in the case of county elections, stating his name and the name of the party he represents. On election day the watcher shall present his identification to the chairman of precinct officials of the precinct or precincts where he is to serve.

(c) All watchers for precincts shall be permitted to observe the conduct of the election in the precinct. The watchers may remain in the precinct as long as the precinct is in operation subject to section 19-6.

(d) The watcher shall call the attention of the chairman to any violations of the election laws that he observes. After his attention is called to the violation the chairman shall make an attempt to correct such violation. If the chairman fails to correct the violation, the watcher may appeal to the clerk of the county.”

(aa) Section 11-91, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-91 Proclamation.** Not later than 4:30 p.m. on the tenth day prior to the close of filing in elections involving state offices the chief election officer shall issue an election proclamation. In elections involving only county offices the clerk shall issue the proclamation. In elections involving both state and county offices the proclamation may be issued jointly.

The proclamation shall contain a statement of the time and places where, and the purposes for which, the election is to be held, and a designation of the offices and the terms thereof for which candidates are to be nominated or elected. It may also contain any other relevant matter including an offer of rewards for the detection and conviction of offenders against the election laws. The chief election officer or clerk shall cause the election proclamation to be published at least once in a newspaper of general circulation and not later than on the tenth day prior to the close of filing.”

(bb) Section 11-92, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-92 Precincts; polling places; central polling areas; special, special primary and special general election precincts.** The chief election officer shall set apart one or more precincts in each representative district and shall provide a suitable and separate polling place in or for each precinct. Schools, police stations, fire stations, and other publicly owned or controlled buildings shall, whenever possible and convenient, be used as polling places. The chief election officer shall make arrangements for the rental or erection of suitable shelters for this purpose whenever public buildings are not available and shall cause such polling places to be equipped with the necessary facilities for lighting, ventilation, and equipment needed for elections on any island. It shall be lawful for the chief election officer to establish a central polling area for contiguous precincts, notwithstanding district boundaries, when it is convenient and readily accessible for the voters of the precinct involved.

Before the establishment of any central polling area the chief election officer shall notify the political parties and publish a notice once in a newspaper of general circulation. The notice shall state the time and place of a hearing pursuant to chapter 91. After the hearing a regulation shall be issued establishing the central polling place.

ACT 217

No change shall be made in the boundaries of any precinct nor shall a central polling area be established later than 4:30 p.m. on the ninetieth day prior to an election.

Notwithstanding the last paragraph if the chief election officer or the county clerk in county election determines that the number of candidates or issues on the ballot in a special, special primary or special general election does not require the full number of established precincts, such precincts may be consolidated for the purposes of the special, special primary or special general election into a small number of special, special primary or special general election precincts. A special, special primary or special general election precinct shall be considered the same as an established precinct for all purposes, including precinct official requirements provided in section 11-71. Not later than 4:30 p.m. on the tenth day prior to the special, special primary or special general election the chief election officer or the county clerk shall give public notice in a newspaper of general circulation in the area in which the special, special primary or special general election is to be held of the special, special primary or special general election precincts and their polling places. Notices of such consolidation shall also be posted on election day at the established precinct polling place giving the location of the special, special primary or special general election precinct polling place.”

(cc) Section 11-96, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-96 Records prima facie evidence. Every record made pursuant to law by a board of registration of voters, or the precinct officials, shall be a prima facie evidence of the facts therein set forth, and shall be received as such in any court or tribunal in which the same is offered in evidence.”

(dd) Section 11-97, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-97 Records open to inspection. The register of voters and all records appertaining to the registry of voters, or to any election, in the possession of the board of registration, the precinct officials, the chief election officer or the clerk shall, at all reasonable times, be open to the inspection of any voter.”

(ee) Section 11-111, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-111 Official and specimen ballots. Ballots issued by the chief election officer as to state elections and by the county clerk as to county elections are official ballots. The chief election officer or county clerk in the case of county elections where paper ballots or electronic ballot cards are used, shall have printed sufficient copies of each of the official ballots to be used at the various precincts so that at least one copy can be posted for each voting unit. These copies will have printed across their face in large bold letters, and with ink of a color plainly contrasting to the color of the paper used, the word “Specimen”. In preparing specimens of electronic ballot cards, the chief election officer or clerk shall use material other than the actual data processing card. The copies of the specimen ballots shall be forwarded to the precinct

officials with the official ballots. The precinct officials shall post the specimen ballots near the entrance to the voting place where they may be easily seen by the voters prior to voting.”

(ff) Section 11-113, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-113 Presidential ballots. (a) In presidential elections, the names of the candidates for president and vice president shall be used on the ballot in lieu of the names of the presidential electors, and the votes cast for president and vice president of each political party shall be counted for the presidential electors and alternates nominated by each political party.

The chairman of the state central committee of each qualified political party shall submit the names of the presidential and vice presidential candidates to the chief election officer not later than 4:30 p.m. on August 31 of the election year in an affidavit stating that both the state and the national party are in agreement as to the candidates for president and vice president. A “national party” as used in this section shall mean a party established and admitted to the ballot in at least one state other than Hawaii or one which is determined by the chief election officer to be making a bona fide effort to become a national party. If there is no national party or the national and state parties or factions in either the national or state party do not agree on the presidential and vice presidential candidates, the chief election officer may determine which candidates’ names shall be placed on the ballot or may leave the candidates’ names off the ballot completely.

(b) All candidates for president and vice president of the United States shall be qualified for inclusion on the general election ballot under either of the following procedures:

- (1) In the case of candidates of political parties which have been qualified to place candidates on the primary and general election ballots, the appropriate official of such party shall file a sworn application with the chief election officer not later than 4:30 p.m. on the sixtieth day prior to the general election, which shall include:
 - (A) The name and address of each of the two candidates;
 - (B) A statement that each candidate is legally qualified to serve under the provisions of the United States Constitution;
 - (C) A statement that the candidates are the duly chosen candidates of the party, giving the time, place and manner of such selection.
- (2) In the case of candidates of parties or groups not qualified to place candidates on the primary or general election ballots, the person desiring to place such names on the general election ballot shall file with the chief election officer a sworn application not later than 4:30 p.m. on the sixtieth day prior to the general election which shall be upon the form prescribed and provided by the chief election officer and shall include:
 - (A) The information included under (1), (A) and (B) above, and (C) where applicable;
 - (B) A petition signed by one per cent of the registered voters of the

State, which petition shall contain the names of the candidates, a statement that the persons signing intend to support such candidates, the address of each signatory and the date of his signature.

Each applicant, and the candidates named, shall be notified in writing of his eligibility or disqualification for placement on the ballot not later than 4:30 p.m. on the tenth day after filing or not later than 4:30 p.m. on the fiftieth day prior to the presidential election whichever is less.

If the applicant, or any other party, individual or group with a candidate on the presidential ballot, objects to the finding of eligibility or disqualification he or they may, not later than 4:30 p.m. on the fifth day after the finding, file a request in writing with the chief election officer for a hearing on the question. Such hearing will be called not later than 4:30 p.m. on the tenth day after the receipt of the request and will be conducted in accord with chapter 91. A decision will be issued not later than 4:30 p.m. on the fifth day after the conclusion of the hearing.”

(gg) Section 11-114, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-114 Order of offices on ballot. The order of offices on a ballot shall be arranged substantially as follows: first, president and vice president of the United States; next, United States senators; next, United States house of representatives; next, governor and lieutenant governor; next, state senators; next, state representatives; next, board of education, except in primary elections; and next, county offices. The color, size, weight, shape, and thickness of the ballot shall be determined by the chief election officer.”

(hh) Section 11-115, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-115 Arrangement of names on the ballot. The names of the candidates shall be placed upon the ballot for their respective offices in alphabetical order subject to section 11-118 and the limitations of the voting system in use, and except for the case of the candidates for vice president and lieutenant governor in the general election whose names shall be placed immediately below the name of the candidate for president or governor of the same political party.

In the case of paper ballots or electronic ballot cards where the names of the candidates are printed and the voter records his vote on the face of the ballot, the following format shall be used: A horizontal line shall be ruled between each candidate’s name and the next name, except between the names of presidential and vice presidential candidates and candidates for governor and lieutenant governor of the same political party in the general election. In such case the horizontal line will follow the name of the candidates for vice president and lieutenant governor of the same political party, thereby grouping the candidates for president and vice president and governor and lieutenant governor of the same political party within the same pair of horizontal lines. Immediately after all the names, on the right-hand side of the ballot, two vertical lines shall be ruled, so that in conjunction with the horizontal lines, a box shall be formed opposite each name and its equivalent, if any. In

case of the candidates for president and vice president and governor and lieutenant governor of the same political party, only one box shall be formed opposite their set of names and this box which will be the same size as the others on the ballot shall be centered adjacent to the right-hand side of the rectangle containing the names of the two candidates. The boxes shall be of sufficient size to give ample room in which to designate the choice of the voter in the manner prescribed for the voting system in use. All of the names upon a ballot shall be placed at a uniform distance from the left-hand edge and close thereto, and shall be of uniform size and print subject to section 11-112.”

(ii) Section 11-117, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-117 Withdrawal of candidates; disqualification; death; notice.

Any candidate may withdraw not later than 4:30 p.m. on the day immediately following the close of filing for any reason and may withdraw after the close of filing up to 4:30 p.m. on the tenth day prior to an election for reasons of ill health when the notice is accompanied by a statement from a licensed physician indicating that such ill health may endanger the candidate’s life, if he is a candidate for member of Congress or for state office, by giving notice in writing to the chief election officer, or if he is a candidate for a county office, by giving notice in writing to the county clerk of the county in which the candidate was seeking nomination or election.

On receipt of the notice of withdrawal the chief election officer or the clerk shall inform the chairman of the political party of which the person withdrawing was a candidate. When a candidate dies, withdraws or is disqualified after the close of filing and the ballots have been printed, the chief election officer or the clerk shall either order the candidate’s name stricken from the ballot or that a notice of the disqualification, withdrawal or death be prominently posted at the polling place on election day.

In no case shall the filing fee be refunded after filing.”

(jj) Section 11-118, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-118 Vacancies; new candidates; insertion of names on ballots and notice at polling places. In case of death, withdrawal, or disqualification of any party candidate after filing, the vacancy so caused may be filled by the appropriate committee of the party. The party shall be notified by the chief election officer or the clerk in the case of a county office immediately after the death, withdrawal, or disqualification. If the party fills the vacancy, and so notifies the chief election officer or clerk not later than 4:30 p.m. on the third day after the vacancy occurs, but not later than 4:30 p.m. on the thirtieth day prior to a primary, special primary or special election or not later than the twentieth day prior to a general or special general election the name of the replacement shall be printed in an available and appropriate place on the ballot, not necessarily in alphabetical order. If the substitute candidate is submitted later than the time limits set forth above it will be in the discretion of the chief election officer or the clerk whether the name of any substitute candidate is placed upon the ballot by reprinting, over printing, the use of rubber stamps, or such other means as the chief election officer or county clerk may deem satis-

ACT 217

factory. The precinct officials shall post a notice at the polling place of the name of the substitute candidate and the office sought. Substitution shall be made not later than 4:30 p.m. on the tenth day prior to any election unless the chief election officer or the clerk determines that the name can be placed on the ballot in some practical and effective manner. If no substitution is made the candidacy involved shall be declared vacant.”

(kk) Section 11-119, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-119 Printing; quantity.** The ballots shall be printed by order of the chief election officer or the county clerk in the case of county elections. In any state or county election the chief election officer on agreement with the county clerk may consolidate the printing contracts for similar types of ballots where such consolidation will result in lower costs.

Each precinct shall receive a sufficient number of ballots based on the number of registered voters and the expected spoilage in the election concerned. A sufficient number of absentee and mailing ballots shall be delivered to each county clerk not later than 4:30 p.m. on the tenth day prior to the date of any election. Each county clerk shall, as soon as may be practical after the election, certify to the chief election officer the actual number of ballots delivered to absentee voters.”

(ll) Section 11-120, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-120 Distribution of ballots; record.** The chief election officer or the county clerk in county elections shall forward the official ballots, specimen ballots, and other materials to the precinct officials of the various precincts. They shall be delivered and kept in a secure fashion in accordance with rules and regulations promulgated by the chief election officer. In no case shall they arrive later than the opening of the polls on election day.

A record of the number of ballots sent to each precinct shall be kept by the chief election officer or the clerk.”

(mm) Section 11-131, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-131 Hours of voting.** The polls shall be opened by the precinct officials at 7:00 a.m. of the election day and shall be kept open continuously until 6:00 p.m. of that day. If, at the closing hour of voting, any voter desiring to vote is standing in line outside the entrance of the polls with the desire of entering and voting, but due to the polling place being overcrowded has been unable to do so, he shall be allowed to vote irrespective of the closing hour of voting. No voter shall be permitted to enter or join the line after the prescribed hour for closing the polls. If all of the registered voters of the precinct have cast their votes prior to the closing time, the polls may be closed earlier but the votes shall not be counted until after closing time unless allowed by the chief election officer.”

(nn) Section 11-132, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-132 Admission within polling place.** The precinct officials

shall, prior to opening the polls, set apart an area of one thousand feet in radius around the polling place to prevent interference with the conduct of the election. No person, other than the precinct officials, watchers, if any, the candidates, and such voters as are for the time being actually engaged in voting or going to and returning therefrom, shall be permitted within the area so set apart during the time appointed for voting, except that public sidewalks, alleys, roads, streets, and highways falling within the one thousand foot radius shall be open to persons and vehicles passing through. Any other person who remains or loiters within the area so set apart during the time appointed for voting shall be guilty of a misdemeanor. If a voter is manifestly physically disabled, the voter may be assisted by anyone through the area so set apart.

The chief election officer may allow nonvoter groups to observe the election for educational purposes. The chief election officer shall use his discretion in granting such permission and insure that such persons whose applications are granted may observe the election at designated precincts in such a manner that they will not interfere with the election process.”

(oo) Section 11-133, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-133 Voting booths; placement of ballot boxes. The precinct officials shall provide sufficient booths within the polling place at or in which the voters may conveniently cast their ballots. The booths shall be so arranged that in casting the ballots the voters are screened from the observation of others.

The precinct officials shall place ballot boxes, where used, at a point convenient for voters to cast their ballots after voting and where the boxes may be observed by the precinct officials.”

(pp) Section 11-135, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-135 Procedure upon opening polls. At the opening of the polls for election, the chairman of the precinct officials shall, in the presence of bystanders, publicly open the ballot boxes and expose them to all persons present, that it may be seen that they are empty. They shall then be closed and locked and on no account opened till the polls are closed, except in those precincts using electronic ballots where the ballot boxes may be opened at the direction of the chief election officer for the early delivery of ballots to the counting center.

The seals of the ballot containers or packages shall be broken and opened on election day only in the presence of at least two precinct officials not of the same party.

A card of instruction detailing the method of marking ballots and of voting shall be immediately posted at or in each voting booth provided for by section 11-133; and not less than three cards shall be immediately posted in conspicuous places outside the polling place.”

(qq) Section 11-136, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-136 Poll book, identification, voting. Every person upon applying to vote shall sign his name in the poll book prepared for that purpose. This

requirement may be waived by the chairman of the precinct officials if for reasons of illiteracy or blindness or other physical disability the voter is unable to write. Every person shall provide identification if so requested by a precinct official.

After signing the poll book and receiving his ballot, the voter shall proceed to the voting booth to vote according to the voting system in use in his precinct. The precinct officials may, and upon request shall, explain to the voter the mode of voting."

(rr) Section 11-137, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-137 Secrecy; removal or exhibition of ballot. No person shall look at or ask to see the contents of the ballot of any voter, except as provided in section 11-139, nor shall any person within the polling place attempt to influence a voter in regard to whom he shall vote for. When a voter is in the voting booth for the purpose of marking or casting his ballot, no other person shall, except as provided in section 11-139, be allowed to enter the booth or to be in a position from which he can observe how the voter marks or casts his ballot.

In those precincts using paper ballots or electronic ballot cards no person shall take a ballot out of the polling place except for the early pick up of electronic ballot cards for delivery to the counting center and as provided in section 11-139. After voting the voter shall leave the voting booth and deliver his ballot to the precinct official in charge of the ballot boxes. The precinct official shall make certain that he has received the correct ballot and no other and then shall drop the ballot into the ballot box. If any person having received a ballot leaves the polling place without first delivering the ballot to the precinct official as provided above, or wilfully exhibits his ballot, except as provided in section 11-139, after the ballot has been marked, such person shall forfeit his right to vote, and the chairman of the precinct officials shall cause a record to be made of the proceeding."

(ss) Section 11-138, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-138 Time allowed voters. A voter shall be allowed to remain in the voting booth for five minutes, and having voted the voter shall at once emerge and leave the voting booth. If he refuses to leave when so requested by a majority of precinct officials after the lapse of five minutes, he shall be removed by the precinct officials. Once a voter has completed his voting and emerged from the booth, he shall not be permitted to re-enter."

(tt) Section 11-139, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-139 Assistance of illiterate or disabled voter. Any voter who, by reason of illiteracy or blindness or other physical disability, is unable to mark his ballot, shall, if he so requests, receive the assistance of two precinct officials who are not of the same political party, or of any qualified voter whom he may designate, in the marking thereof. Before rendering assistance or permitting assistance to be rendered, the precinct officials shall be satisfied that the physical disability exists. If a voter with a physical disability finds it

unduly burdensome for him to enter the polling place, he may be handed a ballot outside the polling place but within one hundred feet thereof by the precinct officials, and in their presence but in a secret manner, mark and return the same to the precinct officials.

The precinct officials shall enter in writing in the record book the following:

- (1) The voter's name;
- (2) The fact that the voter cannot read the names on the ballot, if that is the reason for requiring assistance, and otherwise, the specific physical disability which requires him to receive assistance; and
- (3) The name or names of the person or persons furnishing the assistance."

(uu) Section 11-140, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-140 Spoiled ballots. In precincts using paper ballots and electronic ballot cards, if a voter spoils a ballot or ballot card, he may obtain another upon returning the spoiled one. The ballot returned shall be canceled immediately, and the reasons for the cancellation endorsed thereon and signed by the chairman of precinct officials."

(vv) Section 11-152, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-152 Method of counting. Immediately after the close of the polls, except in precincts using voting machines, the chairman of precinct officials shall open the ballot box. In those precincts using electronic ballot cards the cards shall be taken to the counting center. The precinct officials at the precinct and the officials at the counting center shall proceed to count the votes as follows:

- (1) The whole number of ballots shall first be counted to see if their number corresponds with the number of ballots cast as recorded by the precinct officials.
- (2) If the number of ballots corresponds with the number of persons recorded by the precinct officials as having voted, the precinct officials or election officials shall then proceed to count the vote cast for each candidate.
- (3) If there are more ballots or less ballots than the record calls for the precinct officials or election officials shall proceed as directed in section 11-153.

The officials at an electronic ballot card counting center may start to count the ballot cards upon receipt prior to the closing of the polls; provided there shall be no printout by the computer or other disclosure of the number of votes cast for a candidate or on a question prior to the closing of the polls."

(ww) Section 11-154, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-154 Records, etc.; disposition. The final duty of the precinct officials in the operation of the precinct shall be to gather all records and supplies delivered to them and return them to the sending official, either the chief election officer or the county clerk.

The voted ballots shall be kept secure and handled only in the presence of representatives not of the same political party in accordance with regulations promulgated for the various voting systems. After all the ballots have been tabulated they shall be sealed in containers. Thereafter these containers shall be unsealed and resealed only as prescribed by rules and regulations governing the elections.

The ballots and other election records may be destroyed by the chief election officer or county clerk when all elected candidates have been certified by the chief election officer, or in the case of candidates for county offices, by the county clerk.”

(xx) Section 11-172, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-172 Contests for cause; generally.** With respect to any election, any candidate, or qualified political party directly interested, or any thirty voters of any election district, may file a complaint in the supreme court. The complaint shall set forth any cause or causes, such as but not limited to, provable fraud, overages, or underages, that could cause a difference in the election results. The complaint shall also set forth any reasons for reversing, correcting, or changing the decisions of the election precinct officials or the officials at a counting center for electronic ballots.”

(yy) Section 11-173, Hawaii Revised Statutes, is repealed.

(zz) Section 11-174, Hawaii Revised Statutes, is repealed.

(aaa) Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**Sec. 11- Contests for cause in primary and special primary elections.**

(a) In primary and special primary election contests, the complaint shall be filed in the office of the clerk of the supreme court not later than 4:30 p.m. on the seventh day after a primary or special primary election and shall be accompanied by a deposit of \$25 for costs of court. The clerk shall issue to the defendants named in the complaint a summons to appear before the supreme court not later than 4:30 p.m. on the fifth day after service thereof.

(b) In primary and special primary election contests the court shall hear the contest in a summary manner and at the hearing the court shall cause the evidence to be reduced to writing and shall not later than 4:30 p.m. on the fourth day after the return give judgment fully stating all findings of fact and of law. The judgment shall decide what candidate was nominated or elected, as the case may be, in the manner presented by the petition, and a certified copy of the judgment shall forthwith be served on the chief election officer or the county clerk, as the case may be, who shall place the name of the candidate declared to be nominated on the ballot for the forthcoming general or special general election. The judgment shall be conclusive of the right of the candidate so declared to be nominated; provided, that this subsection shall not operate to amend or repeal section 12-41.”

(bbb) Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**Sec. 11- Contests for cause in general, special general and special elections.** (a) In general, special general or special elections, the complaint

shall be filed in the office of the clerk of the supreme court not later than 4:30 p.m. on the twentieth day following the general, special general, or special election and shall be accompanied by a deposit of \$25 for costs of court. The clerk shall issue to the defendants named in the complaint a summons to appear before the supreme court not later than 4:30 p.m. on the tenth day after service thereof.

(b) In cases involving general, special general, and special elections the complaint shall be heard by the supreme court in which the complaint was filed as soon as it reasonably may be heard. On the return day, the court, upon its motion or otherwise, may direct summons to be issued to any person who may be interested in the result of the proceedings.

At the hearing, the court shall cause the evidence to be reduced to writing and shall give judgment, stating all findings of fact and of law. The judgment may invalidate the general, special general, or special election on the grounds that a correct result cannot be ascertained because of a mistake or fraud on the part of the precinct officials; or decide that a certain candidate, or certain candidates, received a majority or plurality of votes cast and were elected. If the judgment should be that the general, special general, or special election was invalid, a certified copy thereof shall be filed with the governor, and he shall duly call a new election to be held not later than on the sixtieth day after the judgment is filed. If the court shall decide which candidate or candidates have been elected a copy of that judgment shall be served on the chief election officer or county clerk, who shall sign and deliver to the candidate or candidates certificates of election, and the same shall be conclusive of the right of the candidate or candidates to the offices."

(ccc) Section 11-175, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-175 Powers of courts; costs. The supreme court may compel the attendance of witnesses, punish contempts, and do whatsoever else may be necessary fully to determine the proceedings, and enforce its decrees therein. The court may make such special rules as it may find necessary or proper. The costs shall be as provided by the supreme court by rule."

(ddd) Section 11-176, Hawaii Revised Statutes, is repealed.

(eee) Section 11-184, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-184 Election expenses and supervision in combined state and county elections. Election expenses in elections involving both state and county offices shall be borne as set forth below.

(1) The State shall pay for and supervise:

- (A) Precinct officials;
- (B) Instruction of precinct officials;
- (C) Boards of registration;
- (D) Polling place costs other than supplies: installation rentals, ballot boxes, voting booths, custodians, telephones, and maintenance;
- (E) Other equipment such as ballot transport containers;
- (F) Temporary election clerks hired to do strictly state work; and

- (G) Extraordinary voter registration costs.
- (2) The county shall pay for and supervise:
 - (A) Normal voter registration, voters list maintenance, and all printing connected with voter registration, including printing of the voters list;
 - (B) Temporary election clerks hired to do strictly county work; and
 - (C) Maintenance of existing voting machines, including parts, freight, storage, programming, and personnel.
- (3) The remaining election expenses shall be divided in half between the State and the county involved. These expenses shall include but not be limited to:
 - (A) Polling place supplies;
 - (B) All printing, including ballots;
 - (C) Temporary election clerks not including voting machine programmers doing work for both the State and county; and
 - (D) All other costs for which the State or county are not specifically responsible relating to the operation of voting machines, electronic voting systems, and other voting systems except paper ballots to include but not be limited to real property rentals, equipment rentals, personnel, mileage, telephones, supplies, publicity, computer programming, and freight.

The responsibility for supervising the above functions shall be determined by the chief election officer where the supervision of such functions has not been assigned by the legislature.

Any future expenses not presently incurred under any voting system now in use or to be used shall be assigned to paragraphs (1), (2), or (3) above by the chief election officer upon agreement with the county clerks or by the legislature.”

SECTION 2. Chapter 12, Hawaii Revised Statutes, is amended as follows:

(a) Section 12-2, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 12-2 Primary held when; candidates only those nominated. The primary shall be held at the regular polling place for each precinct on the first Saturday of October in every even numbered year.

No person shall be a candidate for any general or special general election unless he has been nominated in the primary or special primary next prior thereto.”

(b) Section 12-3, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 12-3 Nomination papers: format; limitations. The name of no candidate shall be printed upon any official ballot to be used at any primary, special primary or special election unless a nomination paper shall have been filed in his behalf and in the name by which he is commonly known. The nomination papers shall be in a form prescribed by the chief election officer containing substantially the following information:

- (1) A statement by the registered voters of the district from which the candidate is running signing the form that their primary election ballot preference designation will allow them to vote for the candidate at the next election;
- (2) A statement by the registered voters that they nominate the candidate for the office on the nomination papers;
- (3) The residence address and county in which the candidate resides;
- (4) The name of the candidate and the office for which he is running, which name and office is to be placed on the nomination papers by the chief election officer or the county clerk in the case of county elections prior to releasing the form to the candidate;
- (5) Space for the names of the registered voters signing the form and their district or districts and precinct or precincts;
- (6) A certification by the candidate that he will qualify under the law for the office he is seeking by the date of the next election, and that he is a registered voter and a resident in the district from which he is running;
- (7) A certification by a party candidate that he is a member of the party, that he believes in the principles and policies of that party, that if elected he will carry out the provisions and pledges of the political platform of the party and will abide by the party's rules and regulations;
- (8) The name the candidate wishes inserted on the ballot and the post office address of the candidate.

No signatures shall be counted, unless they are upon papers having the format set forth above, written or printed thereon, and if there are separate sheets to be attached to the papers, the sheets shall have the name of the person and the office for which he is running placed thereon by the chief election officer or the clerk. These nomination papers and separate sheets shall be provided by the chief election officer or the clerk in the case of county offices.

Nomination papers shall not be filed in behalf of any person for more than one party or for more than one office; nor shall any person file nomination papers both as a party candidate and as a nonpartisan candidate.

The office for which the candidate is running may not be changed from that indicated on the nomination papers and separate sheets. If the candidate wishes to run for an office different from that for which the nomination papers state, he may request appropriate nomination papers from the chief election officer or clerk and have them signed by the required number of voters."

(c) Section 12-6, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 12-6 Nomination papers: time for filing; fees. Nomination papers shall be filed as follows:

- (1) For members of Congress, state, and county offices, with the chief election officer or county clerk in case of county offices not later than 4:30 p.m. on the forty-fifth day prior to the primary, special primary or special election (but if such day is a Saturday, Sunday, or holiday

then not later than 4:30 p.m. on the first working day immediately preceding); provided that any state candidate from the counties of Hawaii, Maui, and Kauai may file his declaration of candidacy with his respective county clerk. The clerk shall transmit to the office of the chief election officer the state candidate's declaration of candidacy without delay.

- (2) There shall be deposited with each nomination a fee on account of the expenses attending the holding of the primary, special primary or special election which shall be paid into the treasury of the State, or the county, as the case may be, as a realization:
 - (A) For governor, lieutenant governor, United States senators, and United States representatives—\$75;
 - (B) For mayor—\$50; and
 - (C) For all other offices—\$25.

(3) Upon the receipt by the chief election officer or the county clerk of the nomination papers of a candidate, the day, hour, and minute when it was received shall be endorsed thereon."

(d) Section 12-8, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 12-8 Nomination papers: challenge. All nomination papers filed in conformity with section 12-3 shall be deemed valid unless objection is made thereto by the chief election officer or the county clerk in the case of county offices or by a registered voter in writing. Such objection is to be made not later than 4:30 p.m. on the second day after the close of filing or the next succeeding working day. In case objection is made, notice thereof shall be given including notification by registered or certified mail to the candidate objected thereto. All objections shall be decided by the chief election officer or county clerk not later than 4:30 p.m. on the second day after they are made. All objections which are upheld shall be placed in writing by the deciding official if so requested by the candidate affected."

(e) Section 12-9, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 12-9 List of candidates. As soon as possible but not later than 4:30 p.m. on the fifth day after the close of filing the chief election officer shall transmit to each county clerk and the county clerk shall transmit to the chief election officer certified lists containing the names of all persons, the office for which each is a candidate, and their party designation, or designation of nonpartisanship, as the case may be, for whom nomination papers have been duly filed in his office and who are entitled to be voted for at the primary, special primary or special election."

(f) Section 12-21, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 12-21 Official party ballots. There shall be only one primary or special primary ballot for each party; provided that ballots of no two parties shall be of the same color or tint. Before being finally printed sample ballots or proofs thereof shall be approved by the chief election officer or county clerk in county elections as to uniformity of size, weight, shape, and thickness and dif-

ferentiation of color or tint for the respective party ballots.

At the top of the primary or special primary ballot shall be printed in large capital letters, words designating the ballot; if a Democratic ballot, the designating words shall be "DEMOCRATIC PRIMARY BALLOT" or "DEMOCRATIC SPECIAL PRIMARY BALLOT"; if a Republican ballot, the designating words shall be "REPUBLICAN PRIMARY BALLOT" or "REPUBLICAN SPECIAL PRIMARY BALLOT", and in the like manner for each other party."

(g) Section 12-22, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 12-22 Official nonpartisan ballots. There shall be only one primary or special primary ballot containing the names of all nonpartisan candidates to be voted for and the offices for which they are candidates. At the top of the ballot shall be printed in large capital letters the words "NONPARTISAN PRIMARY BALLOT" or "NONPARTISAN SPECIAL PRIMARY BALLOT". The ballot shall, in all other respects, conform to the requirements relative to official party ballots."

(h) Section 12-23, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 12-23 Board of education ballots. There shall be a primary election ballot containing only the names of all board of education candidates to be voted for. At the top of the ballot shall be printed in large capital letters the words "SCHOOL BOARD BALLOT". The ballot shall, in all other respects, conform to the requirements relative to official party ballots.

(i) Section 12-31, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 12-31 Selection of party ballot. No person shall be entitled to vote at a primary or special primary election who shall refuse to state his party preference or nonpartisanship to the precinct officials, unless he wishes to vote only for the board of education. If the person desiring to vote is not challenged, one of the precinct officials shall give him one and only one official primary or special primary ballot of the party designated, or the official nonpartisan primary or special primary ballot, or the official board of education ballot, if so designated.

In any primary or special primary election in the year 1970 and thereafter, no person shall be entitled to select a primary or special primary ballot of a type other than that which he had selected at the next preceding primary or special primary election in which he voted, unless, not later than 4:30 p.m. on the ninetieth day preceding the primary or special primary election in which such ballot is to be selected, he has registered with the county clerk to change his party to another party or to a nonpartisan designation. A voter shall be entitled to select any one primary or special primary ballot if:

- (1) He did not vote in any preceding primary or special primary election;
- or
- (2) His party is disqualified under section 11-61; or
- (3) He voted in a board of education race only; or

- (4) He is a newly registered voter; or
- (5) He reregisters after having his name removed from the general county register.

In all primary or special primary elections the precinct officials shall note the voter's party selection where the voters list indicates no previous party selection. This information shall be forwarded to the county clerk."

(j) Section 12-41, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 12-41 Result of election. The person or persons receiving the greatest number of votes at the primary or special primary as a candidate of a party for an office shall be the candidate of the party at the following general or special general election but not more candidates for a party than there are offices to be elected; provided that any candidate for the board of education or for any county office who is the sole candidate for that office at the primary or special primary election, or who is only opposed by a candidate or candidates running on his own ticket and is not opposed by any candidate running on any other ticket, nonpartisan or otherwise, and is nominated at the primary or special primary shall, after the primary or special primary be deemed and declared to be duly and legally elected to the office for which he is a candidate at the primary or special primary regardless of the number of votes received by him. Any nonpartisan candidate receiving at least ten per cent of the total votes cast for the office for which he is a candidate at the primary or special primary, or a vote equal to the lowest vote received by the partisan candidate who was nominated in the primary or special primary, shall also be a candidate at the following election; provided, that when more nonpartisan candidates qualify for nomination than there are offices to be voted for at the general or special general election, there shall be certified as candidates for the following election those receiving the highest number of votes, but not more candidates than are to be elected."

SECTION 3. Chapter 13, Hawaii Revised Statutes, is amended as follows:

Section 13-3, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 13-3 Election of members; primary election. Except as otherwise provided by this chapter, the candidates for the board of education shall be nominated and elected in the manner prescribed by this title.

The school board ballot shall contain the names of all board candidates arranged alphabetically and grouped by party and nonpartisanship. Each voter in the primary shall be entitled to receive the school board ballot and to vote for the number of seats available for such school board districts, and, as the case may be, for such at-large district. Those voters who do not wish to state either their party preference or nonpartisanship at the primary election may select the school board ballot only. Each voter shall only vote for the candidates of one party or nonpartisan. If a ballot is marked contrary to this paragraph, the race shall not be counted."

SECTION 4. Chapter 14, Hawaii Revised Statutes, is amended as follows:

(a) Part I of Chapter 14, Hawaii Revised Statutes, is repealed.

(b) Section 14-21, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 14-21 Nomination of presidential electors and alternates; certification; notification of nominees. In each year when electors of president and vice president of the United States are to be chosen, each of the political parties shall hold a state party convention pursuant to the constitution, bylaws, and rules of the party; and nominate as candidates for its party as many electors, and a first and second alternate for each elector, of president and vice president of the United States as the State is then entitled. The electors and alternates shall be registered voters of the State. The names and addresses of the nominees shall be certified by the chairman and secretary of the convention of the respective parties and submitted to the chief election officer not later than 4:30 p.m. on August 31 of the same year. The chief election officer upon receipt thereof, shall immediately notify each of the nominees for elector and alternate elector of his nomination.”

(c) Section 14-22, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 14-22 Contested nominations of presidential electors and alternates. If more than one certificate of choice and selection of presidential electors and alternate electors of the same political party is filed with the chief election officer, he, as chairman of the contested presidential electors’ committee hereby constituted, shall notify the state comptroller and attorney general, who are the remaining members of the committee, of the date, time, and place of the hearing to be held for the purpose of making a determination of which set of electors and alternate electors were lawfully chosen and selected by the political party. Notice of the hearing shall be given to the chairman of the state central committee of each political party, contestants for the positions of electors and alternate electors by written notice, and to all other interested parties by publication at least once in a newspaper of general circulation. A determination shall be made by the committee by majority vote not later than 4:30 p.m. on October 30 of the same year and the determination shall be final. Notice of the results shall be given to the nominees duly determined to have been chosen. The committee shall have all the powers enumerated in section 11-43.”

(d) Section 14-24, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 14-24 Certificate of election, notice of meeting. Not later than 4:30 p.m. on the last Monday in the month of the election, or as soon as the returns have been received from all counties in the State, if received before that time, the chief election officer shall certify to the governor the names of the presidential electors and alternates of the same political party as the candidates for president and vice president receiving the highest number of votes as elected as presidential electors and alternates. Thereupon the governor shall in accordance with the laws of the United States, communicate by registered mail under the seal of the State of Hawaii to the administrator of general services of the United States, the certificates of persons elected as presidential electors,

setting forth the names of the electors and the total number of votes cast for each elector. The chief election officer shall thereupon, together with a notice of the time and place of the meeting of the electors, cause to issue and transmit to each elector and alternate a certificate of election signed by the governor in substantially the following form:

CERTIFICATE OF ELECTION OF
PRESIDENTIAL ELECTORS

I, Governor of the State of Hawaii, do hereby certify that..... , a member of the party, was on the..... day of, 19....., duly elected a Presidential Elector for the State of Hawaii for the presidential election of 19.....

CERTIFICATE OF ELECTION OF
ALTERNATE PRESIDENTIAL ELECTOR

I, Governor of the State of Hawaii, do hereby certify that..... , a member of the party, was on the..... day of, 19....., duly elected Alternate Presidential Elector for Presidential Elector for the State of Hawaii for the presidential election of 19.....”

SECTION 5. Chapter 15, Hawaii Revised Statutes, is amended as follows:

(a) Section 15-1, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 15-1 Who may vote by absentee ballot. (a) Any voter who will be unable to appear at his polling place during the hours of voting at any election because of absence from the island, county, or district in which he is registered may cause his vote to be cast by absentee ballot subject to this chapter.

(b) Voters unable to appear at the polls on election day for medical, physical, or religious reasons. Any voter covered by this section shall be entitled and enabled to vote in such manner as may be prescribed by rules and regulations promulgated by the chief election officer; provided that any voter who by reason of physical disability is unable to mark his ballot shall be authorized to receive assistance in marking thereof.

(1) Any voter competent to vote at any election shall be allowed to vote under this section if he falls in the following categories:

- (A) Confined in any hospital;
- (B) Confined in any public institution for the care of indigents or aged persons; or
- (C) Confined in any leprosy institution or settlement located on the same island in which the person is registered to vote, or if the person is registered to vote in the county of Kalawao, and due to physical ailments or infirmities is unable to attend the polls.

- (2) Any voter who is confined to his home by reason of illness or physical disability which will prevent him from attending the polls or who by reason of any religious belief, ruling, doctrine or standard will be prevented from attending the polls.”

(b) Section 15-2, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 15-2 Request for absentee ballot.** Any person entitled to vote under this chapter may request an absentee ballot in person or in writing from the county clerk not earlier than on the sixtieth day and not later than 4:30 p.m. on the seventh day prior to the election.

The request shall include any information which will facilitate the location of his voting precinct, the establishment of his right to a ballot, and the address to which he wishes his ballot forwarded. The request, when made for any primary or special primary election, may include an additional request for an absentee ballot to be voted at any election immediately following the primary or special primary, provided the person so indicates in his request and gives reason therefor to the satisfaction of the county clerk.

Any voter requesting an absentee ballot for a primary or special primary election who has not voted in a primary or special primary election since 1968 shall state his selection of party ballot, nonpartisan ballot or of only the official board of education ballot in his request.”

(c) Section 15-3, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 15-3 Delivery of ballots.** Immediately upon receipt of a request within the time limit specified in section 15-2, the county clerk shall examine the records to ascertain whether or not the voter is lawfully entitled to vote as requested. As soon as official ballots are printed and available, the clerk shall mail in a forwarding envelope, via airmail if necessary, or deliver in person, if the voter appears at the office of the clerk, an official ballot and other materials prescribed in section 15-4. All requests received upon the last day of receipt shall be mailed to the voter requesting the same as soon as reasonably practicable, but in no event later than twenty-four hours after receipt thereof.

(d) Section 15-4, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 15-4 Reply envelope; instructions.** The county clerk shall enclose the ballot in an unsealed reply envelope to be furnished by him and which shall be in the form prescribed by the chief election officer. In addition, the county clerk shall prepare printed instructions regarding the manner of marking and returning the absentee ballot. The clerk shall furnish a copy of the printed instructions and information setting forth the precinct and district in which the voter is entitled to vote. The reply envelope shall bear upon the face thereof the name, official title, and post office address of the county clerk and, in the lower left corner, the words “Absentee Ballot Enclosed.” The back of the reply envelope shall contain a statement to be subscribed to by the voter which affirms the fact that he is the person voting.

ACT 217

The absentee voter shall be instructed that his ballot shall not be valid if the affirmation statement is not signed.”

(e) Section 15-5, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 15-5 Return of ballot; voting by absentee voter at polls prohibited.

The reply envelope shall be:

- (1) Mailed and must be received by the county clerk issuing the absentee ballot not later than the closing of the polls on any election day; or
- (2) Delivered other than by mail to the county clerk issuing the absentee ballot not later than the closing of the polls on any election day.

No person having voted an absentee ballot pursuant to this section shall be entitled to cast a ballot at the polls on election day.”

(f) Section 15-6, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 15-6 Absentee ballot container. Each absentee ballot shall be placed in an absentee ballot container or containers. The container shall be securely sealed except for an opening sufficient to permit deposit of the reply envelopes and shall be sufficiently marked with the name and official title of the county clerk and the words “This container holds absentee ballots and must be opened only pursuant to law.” The opening of the container shall be securely sealed at the close of each business day by the clerk or the precinct officials of the absentee precinct. The container itself shall be secured in the office of the clerk.

No person shall open the absentee ballot container before the day provided for in section 15-8 or 15-9. Any person opening the absentee ballot container or tampering with the container before the prescribed time shall be guilty of an election offense under section 19-6.”

(g) Section 15-7, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 15-7 Absentee voter precinct. An absentee precinct shall be established at the office of the respective county clerks or a place designated by the clerk in the county seat. The absentee precinct shall be established under the precinct requirements of chapter 11; provided section 11-72 shall be applied to the absentee precinct instead of to the representative district. The absentee precinct shall meet before election day to handle absentee voters who are voting in person, and the chief election officer shall determine if there should be more than one such precinct in the county. The chief election officer shall also determine the number of precinct officials needed to man the precinct. All absentee precincts established to handle absentee voters who are voting in person shall be closed at 4:30 p.m. the day before the election.

The absentee precinct shall be reopened on election day for the purpose of counting all absentee ballots received in the mail or delivered to the county clerk. In counties using electronic ballot cards an absentee precinct shall be established at the counting center on election day to count the absentee ballots. In no case shall the reply envelope be opened prior to election day.

The chief election officer or the county clerk in county elections may

appoint deputy county clerks to handle absentee voting in person in remote areas where there is no county clerk's office. Deputy county clerks shall also be appointed in those areas where past experience has indicated that it would be a hardship on the voters to require them to appear at the clerk's office."

(h) Section 15-8, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 15-8 Receipt and disposition of absentee ballots. Upon receipt of the envelope marked "Absentee Ballot Enclosed" from any person voting under this chapter, the county clerk or the precinct officials of the absentee precinct shall time stamp the reply envelope and deposit it in the correct absentee ballot container. On election day the container shall be opened by the precinct officials of the absentee precinct. Prior to opening the envelopes and counting the ballots, the envelopes shall be checked for the following:

- (1) Sufficiency of statement;
- (2) If the signature corresponds with the absentee request or register;
- (3) If the voter is a registered voter and has complied with the requirements of section 11-15 or 11-16;
- (4) If the envelope appears to be tampered with.

If an absentee precinct is established at the county clerk's office prior to election day the precinct officials of the precinct shall check the envelopes for the above requirements prior to depositing them in the container. All envelopes that have been marked as questionable prior to election day shall be rechecked on election day.

If any of the above requirements is not met, the precinct official shall mark across the face of the envelope "Questionable" giving the reasons therefor and the envelope shall be placed unopened in a separate container and disposed of as prescribed for ballots in section 11-154. If the above requirements are met, the envelope may be opened and the ballot counted as prescribed by law for the voting system in use.

In those absentee precincts using paper ballots, counting of absentee votes may begin after noon of election day. In those absentee precincts using electronic ballot cards the absentee ballot container shall be taken unopened to the counting center, opened, the envelopes rechecked, and the ballots counted on election day. In no case, however, shall the results of the absentee count become publicly known before the polls have officially closed. In absentee precincts using voting machines the machine shall not be read until the polls have officially closed.

Any person violating this section shall be guilty of an election offense under section 19-6."

(i) Section 15-9, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 15-9 Receipt and disposition of late absentee ballots. For any election all reply envelopes containing absentee ballots received by the county clerk after the deadline for receipt stated in section 15-5 shall be kept unopened and disposed of pursuant to section 11-154."

(j) Section 15-10, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 15-10 Death of voter prior to opening of polls. Whenever, prior to the casting of absentee ballots, it is made to appear by due proof to the county clerk or precinct officials that any voter who has marked and forwarded an absentee ballot has died prior to the opening of the polls on the date of election, the ballot of the voter shall be disposed of in the manner provided in section 15-8 for questionable ballots. The casting of any such ballot shall not invalidate the election.”

(k) Section 15-12, Hawaii Revised Statutes, reading as follows, is repealed.

(l) The Hawaii Revised Statutes is amended by adding a new chapter to be designated as Chapter 15A and to read:

“CHAPTER 15A VOTING BY MAILING BALLOT

Sec. 15A-1 Definitions. As used in this chapter, unless otherwise indicated by the context:

“Voter in remote area” means any registered voter who resides ten miles or more from the voter’s designated polling place by the most direct route for public travel.

“Mailing ballot” means an official ballot to be used by a person entitled to vote as provided by this chapter.

“Official working day” means any day from Monday through Friday excluding legal holidays.

Sec. 15A-2 Who may vote by mailing ballots. Any voter who is a “voter in a remote area” as defined by section 15A-1, may vote by “mailing ballot” in any election in the manner provided in this chapter.

Sec. 15A-3 Request for mailing ballot. (a) Any registered voter entitled to vote under this chapter may request a mailing ballot in person or in writing from the county clerk not earlier than on the sixtieth day and not later than 4:30 p.m. on the seventh day prior to the election. The request for a mailing ballot shall include any information which will facilitate the location of his voting precinct, the establishment of his right to a mailing ballot, and the address to which he wishes his ballot forwarded. In any event, not later than 4:30 p.m. on the seventh working day subsequent to the closing of registration for each election, the clerk may mail a request form for a mailing ballot to each registered voter in remote areas who has not already made such a request. The request form shall be accompanied by:

- (1) A stamped, self-addressed envelope; and
- (2) Instructions regarding the manner of completing and returning the request form.

(b) A request made prior to any primary or special primary election by an eligible voter shall be deemed to be made with respect to both the primary and general elections or to both the special primary and special general elections.

Sec. 15A-4 Delivery of ballots. Upon receipt of a request within the time limit specified in section 15A-3, the county clerk shall examine the records to

ascertain whether or not the voter is lawfully entitled to vote as requested. As soon as official ballots are printed and available, the clerks shall mail, or deliver in person if the voter appears at the office of the clerk, an official ballot and other materials prescribed in section 15A-5.

Sec. 15A-5 Reply envelope; instructions. The county clerk shall enclose the ballot in an unsealed reply envelope to be furnished by him which shall be in the form prescribed by the chief election officer. In addition, the county clerk shall prepare printed instructions regarding the manner of marking and returning the mailing ballot. The clerk shall furnish a copy of the printed instructions and information setting forth the precinct and district in which the voter is entitled to vote. The reply envelope shall bear upon the face thereof the name, official title, and post office address of the county clerk and the words, "mailing ballot enclosed." The back of the reply envelope shall contain a statement to be subscribed to by the voter which affirms the fact that he is the person voting. The voter shall be instructed that his ballot shall not be valid if the affirmation statement is not signed."

Sec. 15A-6 Return of ballot; voting at polls prohibited. The reply envelope shall be:

- (1) Mailed and must be received by the county clerk issuing the mailing ballot not later than the closing of the polls on the day of the election; or
- (2) Delivered other than by mail to the county clerk issuing the mailing ballot and must be received not later than the closing of the polls on the day of the election. However, no mailing ballots may be delivered to the polling places on the day of the election.

No person having voted a mailing ballot pursuant to this chapter shall be entitled to cast a ballot at the polls on election day.

Sec. 15A-7 Receipt and disposition of mailing ballots. Upon receipt of the envelope marked "mailing ballot enclosed" from any person voting under this chapter, the county clerk shall time stamp the reply envelope and deposit it in the correct "absentee ballot container" as defined and provided for in section 15-6.

The county clerk shall thereafter follow the procedure prescribed by chapter 15 with respect to the disposition of absentee ballots.

Sec. 15A-8 Receipt and disposition of mailing ballots that are unseasonably mailed. If the mailed reply envelope is received after the time specified by section 15A-6, the envelope shall be kept unopened and disposed of pursuant to section 11-154.

Sec. 15A-9 Death of voter prior to opening of polls. Whenever, prior to the casting of mailing ballots, it is made to appear by due proof to the county clerk or precinct officials that any voter who has marked and forwarded a mailing ballot has died prior to the opening of the polls on the date of election, the ballot of the voter shall be disposed of in the manner provided in section 15-8 for questionable ballots. The casting of any such ballot shall not invalidate the election."

SECTION 6. Chapter 16, Hawaii Revised Statutes, is amended as follows:

(a) Section 16-12, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 16-12 Voting machines; requirements. No voting machines shall be installed for use in any election in the State unless it shall satisfy the following requirements:

- (1) It shall permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for, but no more;
- (2) It shall prevent the voter from voting for the same persons more than once for the same office;
- (3) It shall permit the voter to vote for or against any question he may have the right to vote on, but no other;
- (4) It shall be so equipped that the precinct officials can lock out all rows except those of the voter’s party or nonpartisans, or the board of education as provided in section 13-3, by a single adjustment on the outside of the machine;
- (5) It shall be provided with a protective counter or protective device whereby any operation of the machine before or after the election will be detected;
- (6) It shall be provided with a counter which shall show at all times during an election how many persons have voted;
- (7) It shall be provided with a mechanical model, illustrating the manner of voting on the machine, suitable for the instruction of voters.”

(b) Section 16-23, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 16-23 Folding ballot; voting. Before delivering a ballot to a voter, the precinct official shall fold it in the manner prescribed by the clerk of the several counties, so as to conceal the contents thereof. Upon receiving the folded ballot the voter shall proceed into one of the voting booths provided for the purpose, and shall mark his ballot in the manner prescribed by section 16-22.

He shall then refold the ballot in the same folds as it was in when handed to him by the chairman of precinct officials; and shall, without delay and without showing or in any way displaying the contents of the ballot to anyone except as provided in section 11-139, leave the booth and deliver the folded ballot to the precinct official in charge of the ballot boxes. The precinct official shall not open or unfold the ballot, but shall examine the ends of the ballot sufficiently to be satisfied that there is but one ballot enfolded, whereupon the ballot shall be immediately dropped into the proper box by the precinct official.

No ballot enclosed in an envelope or wrapper of any kind shall be received or counted.”

(c) Section 16-25, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 16-25 Order and method of counting. Each ballot shall be counted and finished as to all the candidates thereon before counting a second and sub-

sequent ballots. Except as provided in section 11-71, the ballots shall be counted by teams in the following manner only: by one precinct official announcing the vote in a loud clear voice, one precinct official tallying the vote, one precinct official watching the precinct official announcing the vote and one precinct official watching the precinct official tallying the vote. The precinct official doing the announcing or tallying and the precinct official watching him shall not be of the same political party.”

(d) Section 16-26, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 16-26 Questionable ballots.** A ballot shall be questionable if:

- (1) A ballot contains any mark or symbol whereby it can be identified, or any mark or symbol contrary to the provisions of law; or
- (2) Two or more ballots are found in the ballot box so folded together as to make it clearly evident that more than one ballot was put in by one person, the ballots shall be set aside as provided below.

Each ballot which is held to be questionable shall be endorsed on the back by the chairman of precinct officials with his name or initials, and the word “questionable.” All questionable ballots shall be set aside uncounted and disposed of as provided for ballots in section 11-154.”

(e) Section 16-27, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 16-27 Number of blank and questionable ballots; record of.** In addition to the count of the valid ballots, the precinct officials shall, as to each separate official ballot, also determine and record the number of totally blank ballots and the number of questionable ballots.”

(f) Section 16-28, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 16-28 Declaration of results.** When the precinct officials have ascertained the number of votes given for each candidate they shall make public declaration of the whole number of votes cast, the names of the persons voted for, and the number of votes for each person.”

(g) Section 16-42, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 16-42 Electronic voting requirements.** When used at primary or special primary elections, the automatic tabulating equipment of the electronic voting system shall count only votes for the candidates of one party, or non-partisans, or the board of education as provided in section 13-3. In all elections the equipment shall reject all votes for an office when the number of votes therefor exceeds the number which the voter is entitled to cast.”

SECTION 7. Chapter 17, Hawaii Revised Statutes, is amended as follows:

(a) Section 17-1, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 17-1 United States senator.** When a vacancy occurs in the office of United States senator the vacancy shall be filled for the unexpired term at the

following state general election, provided that the vacancy occurs not later than 4:30 p.m. on the sixtieth day prior to the primary for nominating candidates to be voted for at the election; otherwise at the state general election next following. The chief election officer shall issue a proclamation designating the election for filling vacancy. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election and qualification of the person duly elected to fill the vacancy and shall be a registered member of the same political party as the senator causing the vacancy. All candidates for the unexpired term shall be nominated and elected in accordance with this title.”

(b) Section 17-2, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 17-2 United States representative.** When a vacancy occurs in the representation of this State in the United States House of Representatives, the chief election officer shall issue a proclamation for an election to fill the vacancy unless the unexpired term is for less than one hundred eighty days. The proclamation shall be issued not later than on the sixtieth day prior to the election to fill the vacancy and shall contain the date, time, and places where the special election is to be held, the time within which nomination papers shall be filed, the time for transmitting to county clerks the notice designating the offices for which candidates are to be elected, the time for transmitting to county clerks lists of candidates to be voted for at the special election and such other matters as provided for in section 11-91 and which are not inconsistent with this section. The special election shall be conducted and the results ascertained so far as practicable, in accordance with this title.”

(c) Section 17-3, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 17-3 State senator.** Whenever any vacancy in the membership of the state senate occurs, the term of which ends at the next succeeding general election, the governor shall make an appointment to fill the vacancy for the unexpired term and the appointee shall be of the same political party as the person he succeeds.

In the case of a vacancy, the term of which does not end at the next succeeding general election:

- (1) If it occurs not later than on the tenth day prior to the close of filing for the next succeeding primary election, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall be nominated and elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill the vacancy. The appointee shall be of the same political party as the person he succeeds.
- (2) If it occurs after the tenth day prior to the close of filing for the next succeeding primary but not later than on the tenth day prior to the next succeeding general election, the vacancy shall be filled for the

unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired senate term shall be nominated by the county committees of the parties and elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill such vacancy. The appointee shall be of the same political party as the person he succeeds.

- (3) If it occurs after the tenth day prior to the next succeeding general election, the governor shall make an appointment to fill the vacancy for the unexpired term and the appointee shall be of the same political party as the person he succeeds.”

(d) Section 17-5, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 17-5 Failure to elect.** Whenever any vacancy occurs in the offices provided in this chapter because of failure to elect a person at an uncontested general election, the chief election officer shall issue a proclamation for a special primary and general election. The special primary election shall be held not sooner than on the seventy-fifth day and not later than on the one hundred twentieth day after the issuance of the proclamation and the special general election shall be held not sooner than on the twentieth day and not later than on the thirtieth day after the special primary election. Nomination papers shall be filed in accordance with section 12-6.”

SECTION 8. Section 19-6, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 19-6 Misdemeanors.** The following persons shall be guilty of a misdemeanor:

- (1) Any person who offers any bribe or makes any promise of gain, or with knowledge of the same permits any person to offer any bribe or make any promise of gain for his benefit, to any voter to induce him to sign a nomination paper, and any person who accepts any bribe or promise of gain of any kind as consideration for signing the same, whether the bribe or promise of gain be offered or accepted before or after the signing.
- (2) Any person who wilfully tears down or destroys or defaces any election proclamation or any poster or notice or list of voters or card of instructions or specimen ballot, issued or posted by authority of law.
- (3) Any person printing or duplicating or causing to be printed or duplicated any ballot, conforming as to the size, weight, shape, thickness, or color, to the official ballot so that it could be cast or counted as an official ballot in an election.
- (4) Every person who is disorderly or creates a disturbance whereby any meeting of the precinct officials or the board of registration of voters during an election is disturbed or interfered with; or whereby any person who intends to be lawfully present at any meeting or election is prevented from attending; or who causes any disturbance at

any election; and every person assisting or aiding or abetting any disturbance.

- (5) Every person who, either in person or through another, in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any meeting of the board of registration of voters, or in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any election.
- (6) Any person, other than those designated by section 11-132, who remains or loiters within the area set aside for voting as set forth in section 11-132 during the time appointed for voting.
- (7) Any person, including candidates carrying on any campaign activities within the area described in section 11-132 on the day on which an election is being held for the purpose of influencing votes. Campaign activities shall include but not be restricted to the following:
 - (A) The distribution, circulation, posting, or staking of campaign cards, pamphlets, and other literature;
 - (B) The use of public address systems and other public communication media;
 - (C) The use of motor caravans or parades;
 - (D) The use of entertainment troupes or the free distribution of goods and services.

The "day of election" as used in this paragraph shall commence at midnight of the day before the polls are opened and shall end with the closing of the polls.
- (8) Any person who opens a reply envelope containing an absentee ballot voted under chapter 15 or a mailing ballot voted under chapter 15A other than those authorized to do so under chapters 15 and 15A.
- (9) Any voter who makes any false statement in any affidavit required for absentee voting under chapter 15 or for voting by mailing ballots under chapter 15A.
- (10) Every person who, being a candidate for election, or an agent of any candidate, or a member of any committee acting for or on behalf of any candidate, or in charge of any committee or political party to which money is contributed during an election or which spends money in any election, fails to file the statement of expenses or of lack of expenses, as required by law.
- (11) Any person making any anonymous contribution to any candidate, party, or committee as defined in section 11-191 or any candidate, party, or committee receiving any such contribution or entering any contribution falsely in his accounts.
- (12) Any unauthorized person found in possession of any voting machine or keys thereof.
- (13) Every person who wilfully violates or fails to obey any of the provisions of law, punishment for which is not otherwise in this chapter specially provided for."

SECTION 9. Chapter 25, Hawaii Revised Statutes, is amended as follows:

(a) Section 25-5, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 25-5 Compensation. Each of the members of the reapportionment commission selected and certified shall, for the period he holds his office, receive compensation of \$50 per meeting but not to exceed \$1,000 per month and shall be allowed actual and necessary expenses incurred in the performance of his duties. Payments for compensation and expenses shall be paid by warrants signed by the comptroller upon vouchers properly endorsed by the chairman of the commission. The members of the commission shall be exempt from the provisions of chapters 76 and 77.”

(b) Section 25-7, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 25-7 Apportionment advisory councils. The apportionment advisory councils for the respective basic island units shall be constituted at the same time as the reapportionment commission and the members selected to hold their offices for such terms in the manner prescribed in section 4, Article III, of the Constitution. Each advisory council shall serve in an advisory capacity to the reapportionment commission as to matters affecting its basic island unit. Each member shall be a registered voter of his basic island unit. A member of a council shall, for the period he holds his office, receive compensation of \$50 per meeting but not to exceed \$500 per month and shall be allowed actual and necessary expenses incurred in the performance of his duties. Payments for compensation and expenses shall be made by warrants signed by the comptroller on vouchers properly endorsed by the chairman of the appropriate advisory council. The members of the council shall be exempt from the provisions of chapters 76 and 77. Each council shall elect its own chairman and may elect other officers that may be necessary to carry out its functions. Meetings shall be called and held at the call of the chairman or by a quorum which shall be a majority of the members.”

SECTION 10. Section 235-1, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 235-1 Definitions. “Blind” means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees. The impairment of sight shall be certified to by the state department of health or by any state, county, or city and county medical officer duly authorized by the state department of health for this purpose, on the basis of a written report on an examination performed by a qualified ophthalmologist or qualified optometrist duly authorized by the state department of health.

“Corporation” means the same as in the Internal Revenue Code. A “domestic corporation” is one organized under the laws of the State. A “foreign corporation” is any other corporation.

“Deaf” means a person whose average loss in the speech frequencies (500-2000 Hertz) in the better ear is 82 decibels, A.S.A., or worse. The impair-

ment of deafness shall be certified to by the department of health or by any state, county, or city and county medical officer duly authorized by the department of health for this purpose, on the basis of a written report on an examination performed by a qualified otolaryngologist duly authorized by the department of health.

“Dividend” means any distribution by a corporation to its shareholders or holders of an interest therein which is treated as a dividend by the Internal Revenue Code.

“Fiduciary” means the same as in the Internal Revenue Code.

“Fiscal year” means the same as in the Internal Revenue Code.

“Individual” means a person other than a trust, estate, partnership, or corporation, as defined.

“Gross income,” “adjusted gross income,” and “taxable income” respectively mean the same as gross income, adjusted gross income, and taxable income as defined and determined under the Internal Revenue Code, except as otherwise provided in this chapter.

“Head of household” means any individual who qualifies as a head of household under the Internal Revenue Code.

“Income tax law of 1901” means the income tax law enacted by Act 20 of the Session Laws of 1901 as it read from time to time prior to the enactment of the income tax law of 1932.

“Income tax law of 1932” means the income tax law enacted by Act 44 of the Second Special Session Laws of 1932, as it read from time to time prior to the enactment of the income tax law of 1957.

“Income tax law of 1957” means the income tax law enacted by the Twenty-Ninth Legislature, as it reads from time to time.

“Includes” and “including” when used in a definition shall not be deemed to exclude other things otherwise within the meaning of the term defined.

“Person totally disabled” means a person who has:

- (1) Lost or is born without both feet at or before the ankle;
- (2) Lost or is born without both hands at or above the wrist;
- (3) Lost or is born without one hand and one foot;
- (4) An injury or defect resulting in permanent and complete paralysis of both legs or both arms or one leg and one arm;
- (5) An injury or defect resulting in incurable imbecility or insanity.

The disability shall be certified to by the department of health or by any state, county or city and county medical officer duly authorized by the department of health for this purpose, on the basis of a written report on an examination performed by a qualified physician duly authorized by the department of health.

“Nonresident” means every individual other than a resident.

“Nonresident estate” or “nonresident trust” means one other than resident.

“Partnership” has the meaning explained in section 235-60.

“Person” includes an individual, a trust, estate, partnership, association, company, or corporation.

“Regulated investment company” means a corporation which qualifies

as such under sections 851 and 852 of the Internal Revenue Code.

“Resident” means (1) every individual domiciled in the State, and (2) every other individual whether domiciled in the State or not, who resides in the State. To “reside” in the State means to be in the State for other than a temporary or transitory purpose. Every individual who is in the State more than two hundred days of the taxable year in the aggregate shall be presumed to be a resident of the State. This presumption may be overcome by evidence satisfactory to the department of taxation that the individual maintains a permanent place of abode outside of the State and is in the State for a temporary or transitory purpose. No person shall be deemed to have gained or lost a residence simply because of his presence or absence in compliance with military or naval orders of the United States, or while engaged in aviation or navigation, or while a student at any institution of learning.

“Resident estate” means an estate of a resident decedent the fiduciary of which was appointed by a court of this State and the administration of which is carried on in this State, and “resident trust” means a trust of which the fiduciary is a resident of the State or the administration of which is carried on in the State.

“Taxable year” means the calendar year or the fiscal year ending during such calendar year upon the basis of which income is computed under this chapter. “Taxable year” includes, in the case of a return made for a fractional part of a year under this chapter or under regulations prescribed by the department of taxation, the period for which such return is made, and in cases where the department terminates the taxable year in accordance with section 231-24 and levies a jeopardy assessment on income for such portion or period of a year under section 235-109, then the period or portion of the year for which the jeopardy assessment is made.

“Taxpayer” means a person subject to a tax imposed by this chapter.

“Trade or business” includes the performance of the functions of a public office.

“Uniformed services of the United States” means the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, and all regular and reserve components thereof, including the National Guard. The term “uniformed services of the United States” applies only to persons who are deemed members thereof under the laws of the United States relating to pay and allowances. Service as a member of the uniformed services includes inactive duty training.”

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 12. This Act shall take effect upon its approval.

(Approved June 8, 1973.)

*Edited accordingly.