PETITION TO THE HAWAII STATE SENATE

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The Honorable Ronald D. Kouchi
President of the Senate
Hawai'i State Legislature
Hawai'i State Capitol
415 S Beretania St
Honolulu, HI 96813

PETITION TO THE HAWAII STATE SENATE

Regarding Ballot Accountability and Election Integrity

To the Honorable Members of the Hawaii State Senate:

Aloha Freedom Coalition, a civic organization committed to government transparency, accountability, and election integrity, respectfully submits this petition on behalf of thousands of engaged citizens across the State of Hawaii. With over 20,000 active supporters on social media and within our broader community, we represent a growing movement of voters who demand ethical governance, adherence to election laws, and a legislative commitment to protecting the integrity of Hawaii's electoral process.

In recent elections, significant discrepancies in ballot reconciliation and chain-of-custody tracking have raised serious concerns about compliance with state election laws and administrative rules. Despite clear statutory violations, the Elections Commission has failed to act, leaving the Legislature with a constitutional and fiduciary duty to intervene.

We submit this petition under Article I, Section 4 of the Hawaii Constitution and **Rule 67** of the Senate Rules, demanding immediate legislative intervention. The Senate must act without delay to investigate these discrepancies and restore public confidence in Hawaii's elections.

I. Statement of Grievance

The integrity of elections is the foundation of a democratic society. Article I, Section 1 of the Hawaii Constitution affirms that "all political power of this State is inherent in the people, and the responsibility for the exercise thereof rests with the people." The ability of the people to oversee and verify the security of their elections is fundamental to maintaining public trust in government.

However, recent public records and reports indicate major discrepancies in ballot handling and accountability in all Hawaii counties during the 2024 General Election, raising serious concerns about the reliability of the electoral process:

1. Honolulu City & County **failed to track** the number of ballot envelopes collected at drop boxes or the post office, merely documenting collections without an actual count.
2. Maui County **does not maintain any records** of ballot envelope collection.
3. Hawai'i County reported receiving 57,553 mail-in ballot envelopes, while the state counted 76,595 mail-in ballots—**a discrepancy of 19,042 ballots**. This variance **exceeds the**

margins in multiple local races, including the mayoral contest, county council seats, and state legislative races.

4. Kaua'i County initially reported collecting 23,303 mail-in ballot envelopes, yet the state counted 27,075 ballots—**a discrepancy of 3,772 ballots**. A later revision increased the collection count to 26,633 envelopes, but left **661 ballots unaccounted for, exceeding the margin** between fourth and eighth place in the County Council race.

These alarming inconsistencies violate constitutional protections for fair elections and undermine public confidence in the process. Article II, Section 4 of the Hawaii Constitution mandates that the "method of voting at all elections" be prescribed by law. Failure to properly account for ballots violates this fundamental requirement and jeopardizes election integrity.

Despite documented discrepancies, the Hawaii Elections Commission has failed to conduct an investigation, audit, or take any corrective measures. The Commission, which is charged with overseeing election integrity, has neglected its responsibility, further eroding public confidence in the electoral process. In August 2024, the Elections Commission voted against ensuring certification of the election in accordance with **HRS § 11-155,** despite clear statutory obligations for election certification procedures. This inaction necessitates legislative intervention, as the Elections Commission has failed to uphold its duties as defined under **HRS § 11-7.5** (Duties of the Elections Commission).

Furthermore, Article I, Section 4 of the Hawaii Constitution guarantees the right of the people "to petition the government for a redress of grievances" and with this petition we invoke this constitutional right to demand corrective action regarding these election irregularities.

II. Violations of Hawaii Election Laws and Administrative Rules

These failures contravene multiple state election laws and administrative rules, including but not limited to:

1. **HRS §16-43** (Ballot Handling) – Requires ballots to be handled in the presence of at least two election officials.
2. **HRS §16-27** (Ballot Reconciliation Requirements) – Requires election officials to record the number of blank, questionable, and valid ballots to ensure accurate totals.
3. **HAR §3-177-453** (Accountability and Security of Ballots) – Mandates that the chief election officer or designated representative maintain a complete count of all ballots and safeguard them to prevent mishandling or misuse. It also requires county clerks to keep an up-to-date count of all ballots issued, spoiled, and received.
4. **HAR §3-177-750** (Documentation of Overages and Underages) – Requires election officials to document and retain records of any overages (more ballots counted than received) or underages (fewer ballots counted than received) as part of the official election record, ensuring transparency and public accountability.
5. **HAR §3-177-762** (Electronic Voting System; Audit Requirements) – Requires the chief election officer or county clerk to conduct an audit of a random sample of at least 10% of

precincts using electronic voting systems, and if discrepancies are found, an expanded audit must be authorized.

6. **HAR §3-177-769** (Reconciliation of Voted Ballots) – Mandates that county clerks prepare a reconciliation of all voted mail and voter service center ballots, recording totals by precinct, including walk-in ballots, valid mail return envelopes, and invalidated mail ballots, ensuring that any overages or underages are documented and properly classified in the official election record.

The failure of county election offices to comply with these laws calls into question the integrity of the election results.

Further, these alarming inconsistencies indicate potential violations of constitutional rights and undermine public confidence in the election process.

Additionally, **HRS §11-155** requires that election results be certified only after a comparison and reconciliation of:

- The results of the canvass of ballots (HRS Chapter 16)
- The audit of records and resultant overage/underage report
- The audit results of the manual audit team
- The results of any mandatory recount
- All logs, tally sheets, and other election documents

The failure to properly track and account for ballots renders certification unlawful under HRS §11-155. If ballot envelopes were never properly recorded or reconciled, there is no legal basis for the certification of the 2024 election results. Issuing certification under such conditions may constitute a violation of Hawaii's constitutional due process and election integrity provisions (Article I, Section 5; Article II, Section 4).

III. Legislative Duty to Investigate Under Senate Rules

The Hawaii State Senate has a fiduciary duty to uphold election integrity, enforce compliance with election laws, and prevent systemic failures that erode public confidence. Senate **Rules 25, 13,** and **16** empower committees to investigate election discrepancies, subpoena records, and hold government agencies accountable, while **Rule 20** allows for the formation of a Special Investigative Committee to examine election irregularities.

The creation of a Special Investigative Committee under **Rule 20** is not just justified—it is imperative. The scale of these ballot discrepancies far exceeds statistical margins of error and may have directly impacted election outcomes. The Senate must immediately launch a formal investigation to ensure that election laws were followed.

Given the significant ballot discrepancies outlined in this petition, the Senate must exercise its oversight authority to determine whether election officials violated **HRS §11-155, HAR §3-177-453,** and other election security provisions. The Senate has a precedent of investigating public concerns, and failure to act now would be a breach of its fiduciary duty, further undermining public

trust in Hawaii's elections.

IV. Requested Actions

To restore public confidence in Hawaii's electoral process, we respectfully request the Hawaii Senate to take the following actions:

1. **Launch a Formal Legislative Investigation into ballot accountability failures** in all four counties, including a review of records, testimonies from election officials and official observers, and an audit of mail-in ballot processing. The investigation must determine whether the certification of results violated **HRS §11-155** due to the failure to properly track ballots.
2. **Strengthen Ballot Tracking Requirement Legislation, including:**
    - Require election officials to document every step of ballot handling, from collection to counting, using a verifiable chain-of-custody log.
    - Implement random audits of ballot transportation and storage processes to ensure compliance with security protocols.
    - Mandate independent third-party observers for ballot handling at drop boxes and processing centers.
    - Imposing penalties for failure to document ballot transactions as required by law.
3. **Conduct a Full Post-Election Audit of the 2024 General Election** to reconcile collected ballot envelopes with counted votes. This audit must include a review of compliance with **HRS §11-155** and Chapter 16 reconciliation requirements.
4. **Rescind Certification of Close Races and Election Results where discrepancies exceed the margin of victory**, until a thorough review is conducted. The state should rescind certification if statutory requirements under **HRS §11-155** were not met.
5. **Enforce Mandatory Public Disclosure of Overages and Underages**
    - **HRS §11-155** requires public disclosure of all precincts with ballot discrepancies, including a detailed explanation of how discrepancies were calculated.
    - Future election certifications should require documentation of how overages/underages were addressed before certification is allowed.
6. **Legislative Referral to the Judiciary for Review of Certification Validity**
    - The Legislature should refer this matter to the Hawaii Supreme Court for review, requesting a ruling on whether the 2024 election certification process complied with **HRS §11-155** and, if found non-compliant, to determine the appropriate legal remedy, including potential decertification or court-ordered corrective measures.

IV. Conclusion

Some may argue that ballot discrepancies are inevitable in any election and do not necessarily indicate fraud or misconduct. However, the scale of these discrepancies—ranging from **3,772 to 19,042 missing ballots**—far exceeds statistical error margins and would alter election outcomes.

Additionally:

- **HRS §11-155 does not allow certification if ballot totals are not reconciled—there is no legal basis for overlooking these discrepancies.**
- **The failure to track ballots and document chain-of-custody, as required by HAR §3-177-453, means there is no way to verify whether these ballots were legitimate.**
- **Election officials have not provided an adequate explanation for these issues, and the Elections Commission has refused to act, further necessitating legislative oversight.**

By failing to track ballots and properly reconcile election results, county officials may have rendered the 2024 election certification unlawful under HRS §11-155.

Aloha Freedom Coalition stands alongside the people of Hawaii in demanding fair, transparent, and legally compliant elections. The ballot discrepancies outlined in this petition exceed the margins of victory in multiple races, making it clear that election results cannot be certified with confidence without a thorough legislative investigation.

We urge the Senate to act swiftly to preserve the integrity of our elections, protect the fundamental right to vote, and ensure that every legal ballot is properly accounted for. Failure to address these discrepancies risks irreparable damage to public trust in Hawaii's election system.

We demand a formal response from the Hawaii Senate within 30 days, detailing specific actions taken in response to this petition. Failure to act will be seen as willful neglect of fiduciary duty, prompting further civic and legal action.

For the sake of democracy, voter confidence, and election integrity, Aloha Freedom Coalition urges immediate legislative intervention. Failure to address these discrepancies risks irreparable damage to public trust in Hawaii's election system.

Respectfully submitted,

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