

HAWAII LEGISLATIVE DRAFTING MANUAL

Eleventh Edition

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Foreword

The Drafting Manual is prepared by the LRB for use by the Senate and the House of Representatives to provide general guidelines and accepted drafting conventions for the agencies and individuals who prepare measures for introduction in the Hawaii Legislature.

This eleventh revised edition of the Drafting Manual reflects the continuing evolution of legislative drafting practices in Hawaii. This publication revises and updates the previous edition to reflect adjustments to accommodate recent legislation and legislative practices and to incorporate ideas and suggestions from manual users.

Those who have contributed to previous editions of the Drafting Manual are now far too numerous to mention without running the risk of inadvertent omission. Suffice it to say that their efforts and dedication over the years have gone a long way toward making the Manual what it is today. This revised draft of the Manual has been several years in the making, due in part to COVID-19. Many current and former Bureau staff members have made numerous contributions to this revised edition, including Christina Zahara Noh (formerly with the Bureau), Johnny Brannon, Lance Ching, Matt Coke, Devin Choy, Rina Chung, Valerie Grey, Paul Kanoho, Shawn Nakama, Lisa Santos, and Wayne Scott. Of particular note are the extensive efforts of Jordon Higa in heading up this effort and having primary responsibility for incorporating everyone else's copious comments and edits; and Joanna Lee for her patience and accuracy in the production and formatting of multiple drafts of each chapter. The Bureau is also especially grateful to staff in the House and Senate Research offices for their considerable input and suggestions for this edition.

Charlotte A. Carter-Yamauchi
Director

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Chapter 1

INTRODUCTION

The Constitution of the State of Hawaii, article III, section 14, provides, in part: *No law shall be passed except by bill.* This means that every law must be introduced in the Legislature in the form of a bill. In addition, article XVI, section 13, provides: *Insofar as practicable, all governmental writing meant for the public, in whatever language, should be plainly worded, avoiding the use of technical terms.* Thus, a bill should represent a concept or idea in clear, simple, brief, and unambiguous language.

Bill drafting may appear to many people as a formidable task, but in the hands of a trained and competent drafter who is given appropriate directions and specifications, the task can be considerably less daunting. The following discussion focuses on the many considerations that must be given to an idea before seriously proposing a concept to be drafted into bill form.

The sequence on how an idea is translated into specifications for a bill could be described as follows:

1. An idea is conceived.
2. The idea is developed.
 - a. The purpose behind the idea must be firmly understood.
 - b. The idea is appropriate for execution and administration at the statewide level (as opposed to at the individual county or federal level).
 - c. Strategies for carrying out the purpose must be thought through (*i.e.*, how is the purpose to be accomplished?).
 - d. Application of the strategies to real life situations must be tested and found workable and consistent to achieve the desired purpose.
 - e. Ramifications of the strategies as applied must be ascertained and the bad effects, as well as the good, must be determined.
3. If the idea as developed is logical and may be practically implemented at a statewide level, the draft specifications for the bill may be prepared.
4. An outline is created that includes notes on laws that need to be established, amended, or repealed to implement the idea. Be sure that the outline addresses the problem and that the proposed solution or solutions remedy the problem without causing, to the extent practicable, additional problems.

Using a hypothetical idea, the process of producing a bill draft from an initial idea may go something like this:

1. An Idea is Conceived

Someone thinks it would be a good idea to encourage homeowners to plant greenery in their yards. This will beautify and add to the attractiveness of neighborhoods and promote pride of homeownership.

2. The Idea is Developed

How can we encourage this kind of behavior? It is suggested that incentives be provided--give tax credits for residential homeowners for planting greenery (*i.e.*, a homeowner who plants greenery will be allowed to reduce the homeowner's state income tax liability by a certain amount).

At this point in developing the idea, many questions must be asked, data obtained, and decisions made, such as:

- a. What precisely can be planted to qualify for the proposed tax credit? Are we talking about trees, hedges, shrubs, etc.? Moreover, should the application of the tax credit be limited to specific types of greenery (e.g., indigenous or endemic native Hawaiian species)?
- b. How much greenery must be planted? Does a person get the same tax credit for planting one tree as opposed to several trees; one patch of hedge as opposed to a hedge covering an entire side of a lot? Does it matter if the greenery is planted in the front yard where it can be seen or in the back yard behind the house?
- c. Does the planting effort have to be successful? Suppose some or all of the plants die after a month or six months. Is the homeowner to be rewarded for trying, irrespective of the results? Does the homeowner get to claim the tax credit every year that the greenery is alive or for only the year in which it is planted? What administrative difficulties will be met (in terms of proof) if effort and not result is what counts?
- d. How much should the tax credit be? What is an amount sufficient to provide an incentive, yet not so large as to be unaffordable to the State? Should the tax credit be taxpayer cost specific (e.g., actual cost of purchasing the plants, cost of fertilizer, proportionate water cost, etc.)? How are the tax credits to be claimed? Are additional forms required to be filed to administratively process the claim?
- e. What is the amount of tax revenue that will be lost if this kind of program is instituted? Can the State afford this loss?

- f. Will the tax credit be refundable (*i.e.*, a tax refund issued back to the taxpayer) or nonrefundable (*i.e.*, unused credit amount applied to future tax liability until exhausted)?

The answers to some of the questions posed are in part policy decisions--there is no right or wrong answer--and in part answerable only through basic research. For example, determining the number of homeowners with yards will help indicate the range of possible revenue losses.

To improve the chances of successfully passing the bill, thought also must be given to possible objections by others. For example, will tax administrators oppose the idea because it will impose an additional administrative burden to their staff? Will additional staff be required (and therefore more funding needed by the agency) to process the claim?

3. Summary

Once a good set of specifications are developed, the drafter can begin to apply the principles of legislative drafting.

The following summarizes the basic steps that will help the bill drafter in achieving clarity and brevity:

- a. **Find out what the legislator wants.** The drafter must first know what the legislator wishes to accomplish by the bill and what problems are involved. The drafter must therefore gather the relevant facts from the legislator, the legislator's staff, or from other sources, and analyze the problem.
- b. **Examine the legal framework.** The drafter must examine all of the relevant and applicable constitutional provisions and statutes to see what, if anything, has to be amended, repealed, or supplemented. A list of some of the provisions of the Constitution and the Hawaii Revised Statutes that cut across a broad range of subject matters is included as Appendix A on page 401.

When amending existing law, in checking the present language as set forth in the Hawaii Revised Statutes, the drafter must consult the latest softbound supplement (if any) in addition to the hardbound volume. Also, the year of the supplement's publication should be determined. If, for example, the 2020 supplement is being consulted during the time period between May 2021 and December 2021, the drafter is cautioned to ascertain whether legislation passed during the 2021 legislative session changed the language of the applicable section that the drafter is amending.

- c. **Select and organize the concepts.** The drafter must select the most appropriate concepts and organize them into a coherent plan. The specific concepts must cover

only the intended areas, leave no gaps, not overlap or duplicate each other, and must not contradict each other.

d. **Prepare the draft.** Preparation of the draft usually involves the following steps:

- (1) Preparing the first draft;
- (2) Making necessary revisions;
- (3) Checking definitions, cross references, and existing laws affected;
- (4) Cross-checking with other relevant bodies of law (*e.g.*, federal law, county ordinance); and
- (5) Conforming and improving the style to comport with recommended drafting conventions.

Chapter 2

STATUTORY AND CONSTITUTIONAL DRAFTING

Part I. Bills, Generally

1. Types of Bills

While the Hawaii State Constitution requires bills to contain certain elements, neither constitutional nor statutory law prescribes specific formats for particular types of bills. With the exception of bills that amend the state constitution, elements of different types of bills may be combined in a single measure. In their basic form, examples of four of the most common types of bills are set forth in the remainder of this part.¹ They are:

- a. Bills either establishing or amending laws codified in the Hawaii Revised Statutes (Example 2-1 on page 23 of this chapter);
- b. Bills either establishing or amending general uncodified laws not intended or not appropriate for inclusion in the Hawaii Revised Statutes (Example 2-2 on page 26 of this chapter);
- c. Appropriation bills (these are actually a subset of category b, but common enough to justify a separate category) (Example 2-3 on page 29 of this chapter); and
- d. Bills proposing constitutional amendments (Example 2-4 on page 31 of this chapter).

Note: As the official codified laws of the State, the Hawaii Revised Statutes contains only laws of a general and permanent nature. Excluded are special, local, or temporary Acts, provisions related to legislative findings, short titles, severability, savings clauses, applicability, and the like, and other provisions of an ephemeral nature. (See Act 29, Session Laws of Hawaii (SLH) 1966; Act 16, SLH 1968; section 23G-14, Hawaii Revised Statutes (HRS).) Accordingly, the state budget and other pure appropriation measures are not published in the Hawaii Revised Statutes because, although they are general laws of the State, they only apply for the period of the appropriation (usually one or two years) and are therefore not permanent. Even "substantive" laws such as tax or regulatory measures are not codified if not enacted permanently (e.g., if the enacting measure provides for automatic repeal on a specified date or if the measure creates a temporary or pilot program). In contrast, the Session Laws of Hawaii contain all laws enacted at each respective session of the Legislature.

¹ This manual contains many examples of statutes, bills, resolutions, committee reports, and other legislative documents or portions thereof. These examples are provided solely to demonstrate the concepts explained in this manual and are not meant to represent the current state of the law or characterize any actions taken by the Hawaii State Legislature, any legislative committee, or any individual legislator.

While their general appearances may vary, the different types of bills may often share certain characteristics, including:

- a. Having general characteristics relating to structure and organization (see part II of this chapter beginning on page 7);
- b. Using the style, grammar, organization, and word usage conventions followed in the Hawaii Revised Statutes (see chapter 3 beginning on page 35 of this manual); and
- c. Showing changes being made to existing law using the Ramseyer format (see chapters 5 and 6 beginning on page 100 of this manual) that uses:
 - (1) Prefatory language to describe the statutory unit of organization being added, amended, or repealed;
 - (2) Specific conventions showing material that must be set forth as the "base" to use for amendment or repeal; and
 - (3) The use of bracketing and striking through to show language deleted; and the use of underscoring to show language added.

2. What a Bill Can and Cannot Do

Members of the Hawaii State Legislature can introduce bills that establish new state laws, amend existing state laws, or repeal (revoke) existing state laws, including laws that are codified in the Hawaii Revised Statutes and laws that are not codified. As noted previously, bills can also be used to propose changes to the Hawaii State Constitution.

However, drafters should be aware that there are certain types of laws that the Hawaii State Legislature cannot directly amend using a bill. Specifically, the Hawaii State Legislature cannot use bills to directly amend:

- a. Federal laws or regulations, including sections of the United States Constitution, United States Code, or Code of Federal Regulations;
- b. Hawaii Administrative Rules, which are adopted by executive branch agencies;
- c. Hawaii Rules of Court, which are adopted by the Hawaii State Judiciary; and
- d. County charters and county ordinances, which are adopted by each respective county.

Note: Although the Hawaii State Legislature cannot directly amend the federal law using legislation, the Hawaii State Legislature can use a different type of legislative document, a resolution, to ratify a proposed amendment to the United States Constitution. See

chapter 9, part III, item 1, on page 300 of this manual. In addition, although legislative bills cannot directly amend the Hawaii Administrative Rules, Hawaii Rules of Court, or county charters or ordinances, in some cases the Hawaii State Legislature may be able to preempt existing rules, charters, or ordinances by enacting overriding legislation.

Part II. Elements of the Bill

The parts of a bill (as shown in Examples 2-1 to 2-4 beginning on page 23) are generally as follows:

1. Masthead (for bills with mastheads)

2. Title

The Hawaii State Constitution provides that each law shall embrace but one subject, which shall be expressed in its title (article III, section 14). A title must include a distinct reference to the subject matter to which it relates and also cover only one subject. Thus, the scope of the title cannot be narrower than the scope of the subject matter of the bill.

The title of a bill begins with the words A BILL FOR AN ACT usually followed by connective words such as RELATING TO or MAKING AN APPROPRIATION FOR and ends with the expression of the general subject such as INCOME TAX.

The title should be as short and concise as possible and should identify the subject matter of the bill without going into too much detail. This permits amendment to the body of the bill while the bill is being considered by the Legislature. The drafter should take care, however, to avoid a title that is so broad or general that it fails to fairly express the one subject of the bill. In a bill repealing or amending an existing statute, the title should reflect the subject of the chapters of the Hawaii Revised Statutes affected, rather than individual section or chapter numbers. Frequently, the title of a bill proposing a constitutional amendment is narrowly drawn to limit the scope of the subject matter of the bill. For additional legal insight on bill titles, see *Schwab v. Ariyoshi*, 58 Haw. 25, 564 P.2d 135 (1977), and *Taomae v. Lingle*, 108 Haw. 245, 118 P.3d 1188 (2005).

Although in Hawaii's past, titles to bills have been amended, the veto message to S.B. No. 1209, Regular Session of 1977, and Attorney General Letter Opinion dated April 11, 1978, indicate that titles should not be amended once introduced.

3. Enacting Clause

As required by the Hawaii State Constitution, the enacting clause of each law is *BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII* (article III, section 14).

4. Body

a. Short Title

While not mandatory, a short title is sometimes used to identify legislation and also to serve as a convenient citation to a comprehensive, continuing program.

Examples:

(1) Chapter 560, HRS

§560:1-101 Short title. This chapter shall be known and may be cited as the Uniform Probate Code.

(2) Act 163, SLH 2017

SECTION 1. This Act shall be known and may be cited as the "Clift Tsuji Act".

b. Preamble ("Findings" or "Purpose" Section)

The regular inclusion of a findings and purpose section in all bills is *not* advisable except in the specific instances listed below. Most bills are, or should be, self-explanatory, and the inclusion of such a section only increases the length of a bill, burdens the reader, and may require a subsequent drafter to periodically update and revise the section if the bill is amended to the extent that the purpose is altered.

Caveat. The draft of a findings and purpose section should: (1) reflect the contents of the entire bill, including its contents as amended during the course of the legislative process; (2) avoid creation of ambiguity; and (3) be the last section drafted (then, frequently its need disappears). This section is not a substitute for sloppy drafting of other sections of the bill and is most helpful when it states the facts and purpose concisely.

Since a findings and purpose section should not contain substantive law (*i.e.*, provisions that authorize, require, or prohibit certain actions), it usually does not need to be codified in the Hawaii Revised Statutes. Therefore, if such a section is included in a bill, it is generally preferable to make it the first section of the bill and not place it within the sections of the bill that will be codified. See Example (6) on page 11.

Note: The findings and purpose of an enacted bill will still be published in the Session Laws of Hawaii.

The findings portion in a bill should generally come before the statement of purpose. Usually, the findings are laid out first, concluding with a single sentence statement of the bill's overall purpose.

If the drafter believes that the findings and purpose should be published in the Hawaii Revised Statutes, the best way to accomplish this is to include the findings and purpose as a separate section of a new chapter being enacted or as a new section added to an existing chapter, as appropriate. See Example (1) below.

In certain instances, the use of a findings and purpose section may be advisable. Seven instances are set forth below:

- (1) A bill of major significance where the effectiveness of the proposed legislation will depend upon a proper appreciation of the legislative intent.

Example: Act 210, SLH 1974
(Section 393-2, HRS)

§ -2 **Findings and purpose.** The cost of medical care in case of sudden need may consume all or an excessive part of a person's resources. Prepaid health care plans offer a certain measure of protection against such emergencies. It is the purpose of this chapter in view of the spiraling cost of comprehensive medical care to provide this type of protection for the employees in this State. Although a large segment of the labor force in the State already enjoys coverage of this type either by virtue of collective bargaining agreements, employer-sponsored plans, or individual initiative, there is a need to extend that protection to workers who at present do not possess any or possess only inadequate prepayment coverage.

This chapter shall not be construed to interfere with or diminish any protection already provided pursuant to collective bargaining agreements or employer-sponsored plans that is more favorable to the employees benefited thereby than the protection provided by this chapter or at least equivalent thereto.

- (2) A bill proposing a constitutional amendment, to frame the need for and scope of the amendment. See Example 2-4 on page 31 of this chapter for an example of a bill proposing a constitutional amendment.
- (3) A bill proposing a technical change to the law, the significance of which would not be evident to a reader (*e.g.*, a bill amending a provision to overrule, avoid, or conform the law to a judicial interpretation).

- (4) A bill in which enforcement depends principally upon administration, particularly if the administrators have not participated in the preparation of the bill.

Example: Section 321-221, HRS

§321-221 Findings and purpose. The legislature finds that the establishment of a state comprehensive emergency medical services system to include but not be limited to emergency medical services for children is a matter of compelling state interest and necessary to protect and preserve the health of the people of the State. A system designed to reduce medical emergency deaths, injuries, and permanent long-term disability through the implementation of a fully integrated, cohesive network of components, the legislature further finds, will best serve the health needs of the people. Accordingly, the purpose of this part is to establish and maintain a state comprehensive emergency medical services system throughout the State, and to fix the responsibility for the administration of this state system which shall provide for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery of health care services under emergency conditions whether occurring as the result of a patient's condition or of natural disasters or other causes. The system shall provide for personnel, personnel training, communications, emergency transportation, facilities, coordination with emergency medical and critical care services, coordination and use of available public safety agencies, promotion of consumer participation, accessibility to care, mandatory standard medical recordkeeping, consumer information and education, independent review and evaluation, disaster linkage, mutual aid agreements, and other components necessary to meet the purposes of this part.

- (5) A recodification bill intended only to restate existing law without substantive change; in this case, the purpose clause rebuts the presumption that a change in language implies a change in substance.

Example: Act 98, SLH 1977

SECTION 1. The purpose of this Act is to restate, without substantive change, the Horizontal Property Act.

- (6) A bill intended to clarify the intent of the Legislature because of a court decision to the contrary.

Example: Act 108, SLH 2019

SECTION 1. The legislature finds that the holding in *State v. DeMello*, 130 Hawaii 332, 310 P.3d 1033 (App. 2013), denied restitution for a crime victim's wage loss on the basis that "[t]here is no explicit provision in HRS §706-646 for the award of lost wages as part of restitution". Although the Hawaii supreme court later vacated the lower court's ruling in *State v. DeMello*, 136 Hawaii 193, 361 P.3d 420 (2015), holding that section 706-646, Hawaii Revised Statutes, is generally "broad in scope" and requires restitution for lost wages through a plain reading of the language, ambiguity still exists in the section as to what losses are eligible for reimbursement.

The legislature further finds that the additional language in this Act will clarify that the intent of section 706-646, Hawaii Revised Statutes, is to reimburse crime victims fully for all reasonable and verified losses resulting from a defendant's offense. Nevertheless, as signaled by the use of the phrase, "including but not limited to", the losses enumerated in subsection (3) of section 706-646, Hawaii Revised Statutes, are intended to be illustrative, not exhaustive, for purposes of restitution.

- (7) A bill for which the legislator specifically requests a purpose section.

c. **Definitions**

The purpose of a definition is to achieve clarity and consistency without burdensome repetition. A definition should sufficiently frame and identify for the reader what a term means within the context and application of the law. However, a definition *should not contain substantive provisions of law* (i.e., provisions that authorize, require, or prohibit certain actions).

Once a term is defined in a bill, the definition should be used for that term throughout the bill. An exhaustive definition uses the word "means"; a partial definition uses the word "includes" or "including"; and if neither of these is accurate, the definition may use "refers to."

Example: Section 124B-1, HRS

[§124B-1] Definitions. In this chapter, unless the context otherwise requires:

"Commissioned officer" includes a commissioned warrant officer.

"Enlisted member" means a person in an enlisted grade.

"Military" refers to any or all of the armed forces.

Avoid drafting definitions that state the obvious, are for terms that are used only once, or are tortured (*i.e.*, long, drawn out, or unnecessarily wordy). Certain terms are already defined in the Hawaii Revised Statutes. A drafter wishing to define such a term elsewhere can simply incorporate it by reference.

Helpful Hint: To see if a similar definition already exists for a term, consult the Index volume of the Hawaii Revised Statutes (including the supplement volume) and look under the heading "Definitions."

Example: Section 291-71(d), HRS

"Place of public accommodation" has the same meaning as that provided in section 489-2.

For additional information on style conventions for definitions, see chapter 3, item 14, beginning on page 53 of this manual.

d. **Administrative Agency Provisions**

The creation or extension of administrative agencies must be drafted in the framework of the Hawaii State Constitution (especially article V, section 6) and the Hawaii Revised Statutes (chapters 26 and 91). A basic list of administrative provisions includes the department, department head, appointment and removal, compensation, powers and duties, classification of employees, rules, civil service status, reports, and relationship to local government.

See chapter 3, item 1, beginning on page 35 of this manual for a listing of the proper titles of existing departments and department heads.

e. **Rules of Court**

If appropriate, use existing rules of court rather than creating new ones.

Before adding extensive court procedures to the statutes, first determine their necessity by consulting the Rules of Court for the various Hawaii courts, adopted by the Hawaii Supreme Court. See section 602-11, HRS. The Rules of Court may be incorporated by reference.

Example: Section 635-3, HRS

§635-3 Dismissal for want of prosecution. The court may dismiss any action for want of prosecution after due notice to the claimants whenever claimants have failed to bring such action to trial within a period established by rule of court. Prior to dismissal of any action for want of prosecution, a court shall have adopted, promulgated, and published a rule or rules of court providing circumstances in which a claimant may seek relief from the judgment or order and such other safeguards as may be necessary.

f. **Substantive Provisions**

The substance of the bill sets forth rights, powers, privileges, immunities, duties, obligations, or prescriptions. These provisions will be drafted as authorizations, prescriptions, prohibitions, or regulations, or combinations thereof.

g. **Subordinate Provisions**

Subordinate provisions are portions of the bill that set out conditions, exceptions, or other specific instructions on the bill's implementation that are secondary to the bill's substantive provisions but that are still important enough to be delineated in the bill. Examples may include temporary provisions (see item 4(j) on page 14 of this chapter), exceptions or provisos (see item 4(p) on page 16 of this chapter), severability (see item 4(q) on page 17 of this chapter) or other instructions on the interpretation of the bill's contents, or the granting of rule-making authority to an agency (see chapter 4, part I, item 3, beginning on page 67 of this manual).

If subordinate provisions are important, include them as separate sections (*i.e.*, separate section heading within a session law or codified as a separate section within the Hawaii Revised Statutes). Because subordinate provisions are ancillary to substantive provisions, they should generally be placed after the bill's substantive provisions.

h. **Penalties or Sanctions**

Penalties or sanctions may be criminal (fine and imprisonment), civil (civil penalty, creation of a cause of action for damages, injunctive relief, presumption of negligence), or administrative (revocation or suspension of license). For specific penalties, see chapter 4, part I, item 1, beginning on page 62 of this manual.

i. **Order of Hawaii Revised Statutes Sections in Bills**

When drafting a bill, generally, any sections from the Hawaii Revised Statutes being amended should be set forth in numerical order with the lowest number first. If the bill being drafted contains new sections, amended sections, and repealed sections, the bill should be drafted in three parts. The first part should contain the new sections in numerical order with the lowest number first (*e.g.*, if adding new sections to various chapters of the Hawaii Revised Statutes, start with the lowest numbered chapter to which a new section is being added); the second part should contain the amended sections in numerical order, again with the lowest number first; and the third part should contain repealed sections, starting again with the lowest number.

This is a simple, mechanical convention that facilitates organization and understanding of the measure. It is not a requirement of law. As a practical matter, wholly new chapters or sections are most likely to contain the material that is the substantive "heart" of the measure. However, drafters should feel free to organize a bill in a different manner if it will clearly promote a better understanding of the bill by the average reader.

In situations where the addition, amendment, or repeal of a law requires instruction or funding for implementation, sections of session law material containing these instructions or appropriations may be inserted after the sections that add, amend, or repeal sections of the Hawaii Revised Statutes.

j. **Temporary or "Transition" Provisions**

Certain bills must provide for a transition period before the new law is established. Some examples of transition provisions can be found in chapter 4, part I, items 12 to 16, beginning on page 72 of this manual. They provide for a number of the details involved with the transfer of functions from one agency to another.

Transition provisions generally are not codified in the Hawaii Revised Statutes because they apply only during the transition period, and thus are not permanent laws of the State. (See the note on page 5 of this manual for further discussion of codified versus uncodified law.) Accordingly, locating these provisions in a separate section at the end of the bill will facilitate their exclusion from the Hawaii

Revised Statutes without destroying the context and continuity of the permanent provisions.

k. **Conforming Amendments**

Amend all existing laws affected by the bill (*e.g.*, statutes, session laws). For example, if an agency name is being changed, all provisions in the Hawaii Revised Statutes mentioning the agency name must be amended to reflect the change.

l. **Specific Repeals**

When using the Ramseyer format, repealed sections are set forth in full. See chapter 5, item 7(g), on page 124 of this manual.

Example:

SECTION 10. Section 000-00, Hawaii Revised Statutes, is repealed.

~~["**S000-00 Penalty.** Any person who violates any provision of this chapter shall be guilty of a petty misdemeanor. Each day of each violation shall be deemed a separate offense."]~~

A sweeping statement saying that "all laws and parts of laws in conflict herewith are hereby repealed" does not magically eliminate those conflicts. If anything, problems are created due to the ambiguity as to just what is being repealed. Therefore, the actual conflicts must be addressed by specifically repealing each law.

Note: Although the full text of the repealed section appears in a bill as that bill moves through the legislative process, the text of the repealed section will not appear in the printed Session Laws of Hawaii. Specifically, only the prefatory language indicating that the specific section of law was repealed will be printed. This is because section 23G-16.5, HRS, authorizes the Revisor of Statutes to omit the text of a repealed section when printing the Session Laws of Hawaii.

m. **Appropriation**

An appropriation section is needed in a bill if the bill provides for a new program or function that requires funds to support it, unless the funds are incorporated within another bill such as the executive or judicial operating budget. See chapter 7 beginning on page 139 of this manual.

n. **Question Required for Constitutional Amendments**

Section 11-118.5, HRS, requires that any bill proposing a constitutional amendment contain the exact question that is to be printed on the ballot. The question shall be

phrased to require a "yes" or "no" response by the voter. See Example 2-4 on page 31 of this chapter.

o. **Statutory Provisions Commonly Used at the End of Bills**

This manual describes various provisions that frequently appear toward the end of bills. If these provisions are used in a bill, they should appear in the following order:

- (1) Exceptions/provisos (see below);
- (2) Savings clause (see page 17 of this chapter);
- (3) Severability clause (see page 17 of this chapter);
- (4) Provision directing the Revisor of Statutes to substitute sections numbers for letters (discussed in chapter 4, part I, item 24, on page 78 of this manual);
- (5) Ramseyer instructions paragraph (see page 18 of this chapter); and
- (6) Effective date (see page 18 of this chapter).

p. **Exceptions, Provisos, or Saving Clauses**

Limitations on the enforceability of provisions of a bill can be classed as follows:

- (1) **Exception** - restricts the application of the bill to a particular set of circumstances or facts; if possible, draft it as an individual section.

Example:

SECTION 9. This Act shall not apply to applicants for admission to any campus of the university of Hawaii system during the 1996-1997 academic year.

- (2) **Proviso** - removes special cases from the general enactment and provides for them specially, usually drafted within the body of a section, introduced by the phrase "provided that."

Example:

SECTION 16. This Act shall apply to all motor vehicles registered in this State on its effective date; provided that antique motor

vehicles shall not be subject to the requirements of this Act until January 1, 1999.

- (3) **Savings clause** - preserves certain rights, remedies, or privileges that would otherwise be destroyed by the general enactment of the provisions contained in the bill. Usually, the savings clause is used to restrict the wholesale application of the bill's provisions by continuing, in force, those laws amended or repealed by the bill as to existing powers, inchoate rights, penalties, and pending proceedings. A savings clause is also often used when a bill creates a criminal offense or increases penalties for an existing offense because retroactive application of the legislation would be a violation of the prohibition against *ex post facto* laws in the United States Constitution. While some sentencing provisions may be made retroactive in very limited circumstances, this requires specific declaration of legislative intent to do so. In the absence of such a declaration, a savings clause "saves" the bill from violating the prohibition against *ex post facto* laws by explicitly making the bill prospective only.

Example:

SECTION 11. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

q. **Severability**

A severability clause (*severing* invalid provisions from the rest of the body of law) probably does no more than state a principle that the courts should apply anyway. Nonetheless, there may be situations in which a drafter would prefer to expressly emphasize the severability of provisions within a specific bill. The drafter can use the following provision (using language recommended by the Commissioners on Uniform State Laws):

SECTION 12. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

See also section 1-23, HRS.

r. **Ramseyer Instructions Paragraph**

If Ramseyer formatting is used in the bill, a section should be included indicating the effect of underscoring and bracketing and strikethroughs. See chapter 5, item 9, beginning on page 130 of this manual.

s. **Effective Date**

Article III, section 16, of the Hawaii State Constitution provides that a bill becomes law upon the Governor's signature, or if the Governor does not sign the bill, then (generally) on the forty-fifth day after adjournment of the Legislature sine die. However, despite a bill becoming law upon a particular date, a bill should contain a section specifying when the contents of that bill apply, which is known as an effective date. For most bills, the effective date is when the Act is approved and those bills state "This Act shall take effective upon its approval." Other common effective dates are at the beginning of a fiscal year (July 1) for most appropriation bills or at the end or beginning of a fiscal or calendar year for many tax bills. Chapter 4, part I, item 2, beginning on page 64 of this manual, contains a more detailed discussion about effective dates.

Chapter 4 of this manual also discusses other topics that may impact effective dates, including repeal (drop dead) provisions (part I, item 18, beginning on page 75), repeal and reenactment provisions (part III beginning on page 81), and special considerations for amending sections of the Hawaiian Homes Commission Act for which the consent of Congress may be required (part IV beginning on page 90).

5. **Specific Bill Forms and Floor Amendments**

a. **Short Form Bills**

A short form bill is an abbreviated bill, often referred to as a "vehicle" bill, that states in very general terms the purpose to be accomplished by the bill. This device gives a legislative committee the opportunity to examine the general idea contained in the bill before drafting all of the specific details in long form. Note that the respective rules of the Senate and House of Representatives may contain specific requirements regarding the use and introduction of short form bills. See Example 2-5 on page 33 of this manual for an example of a short form bill and its contents.

Note: The Hawaii Supreme Court has held that if a non-germane amendment changes the purpose of a bill to the extent that the amended bill is no longer related to the original bill as introduced, the constitutional requirement that the bill pass three readings in each chamber of the Legislature begins anew. See *League of Women Voters of Honolulu v. State*, 150 Haw. 182, 499 P.3d 382 (2021).

b. Examples of Amendments and Repeals

See Example 2-4 beginning on page 31 of this chapter for an example of a proposed constitutional amendment.

See Example 2-2 beginning on page 26 of this chapter for an example of a bill proposing a new general law not intended for inclusion in the Hawaii Revised Statutes.

See chapter 5, items 3, 4, and 5, beginning on page 103 of this manual for examples of amendments to, and additions to or repeals of, provisions in the Hawaii Revised Statutes.

See Appendices B and C beginning on page 404 of this manual for floor amendments to a bill.

6. Summary Description

a. Generally

Appended at the end of most bills is a summary description page that contains a list of index terms that are most relevant to the measure (report title) and a brief summary of the measure (description). Although the Legislature does not consider the information contained on this page an official part of the legislation or evidence of legislative intent, the information on the page is integrated into the Legislature's information systems and is highly visible. Most significantly, hearing notices for meetings of standing committees include each bill's description, while conference committee hearing notices include each bill's report title. Interested individuals, organizations, and other entities often use the index terms and bill descriptions when searching for bills relating to specific subject matters and generating bill reports from the Legislature's website.

Again, it is important to note that the information contained on the summary description page is meant for *informational purposes only* and should not be considered part of the legislation or evidence of legislative intent.

Drafters should be sure to update a bill's report title and description to reflect any amendments made to the bill as it moves through the legislative process.

Examples of summary description pages can be seen in Examples 2-1 to 2-4 beginning on page 23 of this chapter.

b. **Report Title**

The report title field contains a list of index terms, or keywords, that are relevant to the measure. The terms are separated using semicolons and are listed using initial capitals.

Example: A bill that requires the Judiciary to establish a financial hardship task force may have the following report title:

Judiciary; Task Force; Financial Hardship

Example: A bill that appropriates funds to the Department of Land and Natural Resources to study and combat rapid ohia death disease may have the following report title:

Department of Land and Natural Resources;
Rapid Ohia Death; Study; Appropriation

While drafters should use their best judgment to pick appropriate index terms for the report title, there are some general conventions that the drafter should follow:

- (1) **Agencies** - Generally, if the bill expressly affects a specific agency, that agency is usually listed in the report title.
- (2) **Appropriations** - If the bill makes an appropriation, the term "Appropriation" is listed as the final index term in the report title. If a bill appropriates funds for *two* different fiscal years or contains multiple appropriations, then the plural term "Appropriations" is used.

Example: A bill that appropriates funds to the Department of Health for fiscal year 2021-2022 to fund a telehealth pilot program may have the following report title:

Department of Health; Telehealth; Pilot
Program; Appropriation

Example: A bill that appropriates funds to the Department of Human Resources Development for fiscal years 2021-2022 and 2022-2023 to establish and fund an administrative assistant position may have the following report title:

Department of Human Resources
Development; Administrative Assistant
Position; Appropriations

- (3) **Use of Acronyms** - Acronyms (e.g., DOH, DCCA) may be used in the report title *if* the term is set out completely in the description.

Note: Use of acronyms within a bill are highly discouraged. See chapter 3, item 20, on page 60 of this manual.

Example: Report Title:

DOT; Autonomous Vehicles Testing Pilot Program; Report

Description:

Establishes within the Department of Transportation an autonomous vehicles testing pilot program. Requires report to the Legislature.

Example: Report Title:

Department of Transportation; Autonomous Vehicles Testing Pilot Program; Report

Description:

Establishes an autonomous vehicles testing pilot program. Requires report to the Legislature.

- (4) **Package Measures** - If a bill is introduced as part of a particular package of bills, the name of the package should be listed in the report title (e.g., Hawaii Campaign Spending Commission Package; Kupuna Caucus).

c. **Description**

The bill description should contain a concise summary of the bill. General conventions that the drafter should follow include:

- (1) **Style rules** - Generally, use the same style rules as in statutory text (see chapter 3 beginning on page 35 of this manual). However, unlike statutory text, names of state agencies should be capitalized. If the name of a department or agency is spelled out in the text of the bill description, then the acronym for that department or agency should be included in the report title.

Do not spell out "Hawaii Revised Statutes" or "Session Laws of Hawaii." Instead, use the abbreviations "HRS" or "SLH".

Example: Description:

Amends the appropriation made by Act 306, SLH 2020, to allow the department of education to expend funds on personnel costs.

- (2) **Effective dates and sunset dates** - If the measure has an unconventional effective date (*i.e.*, the measure is not effective "upon approval" or on July 1 or January 1 following the legislative session), the drafter may wish to include the bill's effective date in the description. Furthermore, the drafter is strongly advised to include a notation of the measure's effective date if it is purposefully flawed or delayed (e.g., July 1, 2100) to facilitate further discussion. Noting the effective date in the description serves as a "red flag" to Legislators and others that, if the measure is to be enacted, the effective date needs to be amended to remedy the flawed or delayed effective date. Similarly, the drafter may wish to note in the description any applicable sunset date or repeal and reenactment date.

Example: Description:

Prohibits any person under the age of fifteen from operating a low-speed electric bicycle. Effective 10/1/2021. Sunsets 6/30/2025.

- (3) **Bill draft number** - For clarity, a bill that has been amended after it has been introduced will note its bill draft number (*e.g.*, House Draft 1, Senate Draft 1) in the bill description. Each legislative chamber may use different style conventions when listing a bill's draft number, so the drafter may wish to consult with the clerk of the appropriate chamber if they have questions on which styling convention to use.

Example: Description:

Establishes a historic preservation income tax credit. Applies to taxable years beginning after 12/31/2021. (CD1)

Example 2-1

BILL AMENDING HAWAII REVISED STATUTES

THE SENATE
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

S.B. NO. Masthead

A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAXES.

Bill Title

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

Enacting Clause

Bill Section Number

HRS Section Number

1 SECTION 1. Section 000-00, Hawaii Revised Statutes, is amended to read

2 as follows:

HRS Section Title

Bracketing and strikethrough indicate language deleted

3 "§000-00 Exemptions, persons exempt, rules ~~and~~

4 ~~regulations~~. (a) This chapter shall not apply to the

Subsection (a)

5 following persons:

Underscore indicates new language

6 (1) National banks; and

Paragraphs (1) & (2)
(note capitalization)

7 (2) Corporations, companies, associations, or trusts

8 organized for:

9 (A) The establishment and conduct of

Subparagraph (A)
(note capitalization)

10 cemeteries not part of:

11 (i) The net earnings of which inures to
12 the financial benefit of any private
13 stockholder or individual; and

Clauses (i) & (ii)
(note capitalization)

14 (ii) The net losses of which inures to
15 the financial loss of all private
16 stockholders;

17

S.B. NO.

1 provided[7] that the exemption shall apply
2 only to the activities of the persons in the
3 conduct of cemeteries; and

Subparagraph (A)
continued

4 (B) Any activity the primary purpose of which is
5 to produce income, even though the income is
6 to be used for or in the furtherance of the
7 exempt activities of such persons;

Subparagraph (B)

8 provided[7] that such corporations, companies,
9 associations, and trusts perform for the benefit of
10 their stockholders.

Paragraph (2)
continued

11 (b) The department shall adopt rules [~~and regulations~~]
12 concerning exemptions and [~~may~~] for good cause may extend the
13 time for registration or the time for filing an application for
14 exemption, but the extension or extensions shall not aggregate
15 more than a total of two months.

Subsection (b)

16 (c) As used in this section "person" shall only include
17 those entities set forth in subsection (a) (1) and (2)."

Subsection (c)

18 SECTION 2. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

Ramseyer
Provision

20 SECTION 3. This Act shall take effect upon its approval.

Effective Date

INTRODUCED BY: _____

S.B. NO.

Report Title:

Taxation; General Excise Tax; Exemptions

Report Title

Description:

Makes technical amendments to provisions regarding exemptions from the general excise tax. Clarifies the definition of the term "person" as used in section 000-00, HRS.

Description

Example 2-2

**UNCODIFIED SESSION LAW;
NO HRS CHAPTER OR SECTION REFERENCE**

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

H.B. NO. Masthead

A BILL FOR AN ACT

RELATING TO SKILLS TAUGHT IN THE PUBLIC SCHOOLS.

Bill Title

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

Enacting Clause

Bill Section Number

1 SECTION 1. The legislature finds that many adults and
2 young people lack proficiency in the basic skills of reading,
3 writing, and computation and are unable to successfully
4 complete those tasks that are common to every-day life, such
5 as the selection of the most economical loan, the accurate
6 completion of an income tax return, the accurate balancing of
7 a checking account, the most effective answers to job
8 notices, and the understanding of such contracts as standard
9 rental and purchase agreements. The widespread inability of
10 both the adult and young adult population to adequately
11 perform these tasks has led the legislature to conclude that
12 the teaching of basic skills and their application to real-
13 life situations must be improved.

Findings/
Purpose
Section
(optional)

14 The purpose of this Act is to provide for the
15 establishment of a citizens advisory committee on basic
16 skills and real-life skills to advise the legislature on the
17 kinds of skills that students graduating from public schools
18 should possess.

H.B. NO.

1 SECTION 2. There is created a citizens advisory
2 committee, which shall advise the legislature on the kinds of
3 skills and the levels of proficiency that are necessary to
4 enable the graduates of public schools to function adequately
5 in the adult world. The committee shall be composed of eleven
6 members appointed by the president of the senate and the
7 speaker of the house of representatives. The committee shall
8 elect a chairperson and vice-chairperson from among its
9 members. A majority of the members of the committee shall
10 constitute a quorum. Members of the committee shall serve
11 without compensation.

12 SECTION 3. The committee shall submit a report of its
13 findings and recommendations to the legislature within twenty
14 days after the convening of the 20__ session of the
15 legislature. Ninety days after the submission of its report to
16 the legislature, the committee shall cease to exist.

17 SECTION 4. This Act shall take effect upon its approval.

**Substantive
Provisions**

**Effective
Date**

INTRODUCED BY: _____

Note: This bill format style should *not* be used if the material is to be placed in the Hawaii Revised Statutes. Because inclusion in the Hawaii Revised Statutes is not intended, underscoring is not required even though material is new. However, bills amending uncodified Acts (*e.g.*, if this measure were to become law and a bill introduced in a subsequent year was amending this Act) should show changes using brackets, strikethroughs, and underscoring.

H.B. NO.

Report Title:

Citizens Advisory Committee; Report to Legislature

Report Title

Description:

Establishes a citizens advisory committee to advise the Legislature on the kinds of skills and levels of proficiency that are necessary for public school graduates to function adequately as adults. Requires report to the Legislature.

Description

Example 2-3

UNCODIFIED SESSION LAW; APPROPRIATION MEASURES

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

H.B. NO. Masthead

A BILL FOR AN ACT

MAKING AN APPROPRIATION FOR COMPENSATION OF CRIMINAL INJURIES.

Bill Title

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

Enacting Clause

1 SECTION 1. There is appropriated out of the general revenues
2 of the State of Hawaii the sum of \$ or so much thereof as
3 may be necessary for fiscal year 20__ - 20__ to be deposited into
4 the crime victim compensation special fund.

**Appropriation
(into and out of
special fund)**

5 SECTION 2. There is appropriated out of the crime victim
6 compensation special fund the sum of \$ or so much thereof
7 as may be necessary for fiscal year 20__ - 20__ for the purpose of
8 compensating certain persons or their providers of services pursuant
9 to chapter 351, Hawaii Revised Statutes, as authorized by the crime
10 victim compensation commission.

11 The sum appropriated shall be expended by the department of
12 public safety for the purposes of this Act.

**Expenditure
Authorization**

13 SECTION 3. This Act shall take effect on July 1, 20__.

Effective Date

INTRODUCED BY: _____

H.B. NO.

Report Title:

PSD; Crime Victim Compensation; Appropriation

Report Title

Description:

Appropriates an unspecified sum of general funds into and out of the crime victim compensation special fund to be used to compensate certain persons or their providers of services pursuant to chapter 351, HRS, as authorized by the Crime Victim Compensation Commission of the Department of Public Safety.

Description

Example 2-4

CONSTITUTIONAL AMENDMENT

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

H.B. NO. Masthead

A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION TO CHANGE THE
RESIDENCE QUALIFICATION FOR VOTING.

Bill Title

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

Enacting
Clause

1 SECTION 1. The purpose of this Act is to propose an amendment
2 to article II, section 1, of the Constitution of the State of Hawaii
3 to reduce the residence qualification for voting from one year to six
4 months.

Purpose
(optional
but
advisable)

5 SECTION 2. Article II, section 1, of the Constitution of the
6 State of Hawaii is amended to read as follows:

"QUALIFICATIONS

7
8 **Section 1.** Every citizen of the United States who shall have
9 attained the age of eighteen years, have been a resident of this State
10 not less than [~~one year~~] six months next preceding the election and be
11 a voter registered as provided by law, shall be qualified to vote in
12 any state or local election."

13 SECTION 3. The question to be printed on the ballot shall be
14 as follows:

15 "Shall the residency qualification for voting in the
16 State of Hawaii be reduced from one year to six months?"

Constitutional
Question

17 SECTION 4. Constitutional material to be repealed is bracketed
18 and stricken. New constitutional material is underscored.

Ramseyer
Provision

19 SECTION 5. This amendment shall take effect upon compliance
20 with article XVII, section 3, of the Constitution of the State of
21 Hawaii.

Effective
Date

INTRODUCED BY: _____

H.B. NO.

Report Title:

Constitutional Amendment; Residence Qualification
to Vote

] **Report Title**

Description:

Proposes a constitutional amendment to change the
residence qualification for voting from 1 year to
6 months.

] **Description**

Example 2-5

SHORT FORM BILL

THE SENATE
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

S.B. NO. Masthead

A BILL FOR AN ACT

RELATING TO DISASTER PREPAREDNESS.

] Bill Title

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

] Enacting Clause

1 SECTION 1. The purpose of this Act is to effectuate the
2 title of this Act.

] Purpose

3 SECTION 2. The Hawaii Revised Statutes is amended to
4 conform to the purpose of this Act.

] Means

5 SECTION 3. This Act shall take effect upon its approval.

] Effective Date

INTRODUCED BY: _____

S.B. NO.

Report Title:

Short Form; Disaster Preparedness

] **Report Title**

Description:

Short form bill relating to disaster preparedness.

] **Description**

Chapter 3

STYLE, WORDS, AND GRAMMAR

This chapter is designed to familiarize the drafter with the general style conventions followed in Hawaii's laws, most notably the Hawaii Revised Statutes.

Drafters need to be particularly familiar with the style conventions used in the Hawaii Revised Statutes because most bills propose additions, deletions, or amendments to one or more statutory provisions contained therein. Thus, text from the Hawaii Revised Statutes usually provides the basic working material for the bill. Further, to the extent practicable, the Hawaii Revised Statutes style conventions are also followed in other measures published solely in the Session Laws of Hawaii that are not intended or appropriate for codification in the Hawaii Revised Statutes.

The Hawaii Revised Statutes is organized by broad subject matter areas into a series of chapters, each of which is divided into sections. While there are other levels of organization (for instance, groups of sections within a chapter may be organized into a "part" and material in a section may be further subdivided), the key components for purposes of identification are "chapters" and "sections." Each section is assigned a number which consists of two components: the number of the chapter; and the number of the section within the chapter. For example, sections 171-1, 171-2, and 171-3, Hawaii Revised Statutes (HRS), are three of the first sections within chapter 171, HRS. At a later date, the Revisor of Statutes may insert new sections between consecutively numbered sections through the use of decimals (*e.g.*, 171-2.5, 171-2.51). In certain subject areas such as the Insurance Code, the Uniform Commercial Code, and the Probate Code, an article number is included between the chapter and section numbers to facilitate further subcategorization. Accordingly, section 431:1-100, indicates the chapter (431), article (1), and section number (100) of the law.

Example 2-1 on page 23 is an example of a bill that amends a section of the Hawaii Revised Statutes. Example 2-1 also displays the "anatomy" of the section being amended, showing the different levels of organization that may be contained within a section. Drafters should become familiar with these different levels of organization to ensure that internal cross references within sections are accurate.

Caveat. The following are presented only as general guides for the drafter. The drafter may deviate from these general guides if the deviation enhances clarity and brevity.

1. **Names of Executive Departments, Department Heads, and Other Government Agencies**

The proper title of existing state departments and department heads is as follows:

- a. Department of Accounting and General Services - Comptroller (see section 26-6, HRS)
- b. Department of Agriculture - Board of Agriculture - Chairperson of the Board of Agriculture (see section 26-16, HRS)
- c. Department of the Attorney General - Attorney General (see section 26-7, HRS)
- d. Department of Budget and Finance - Director of Finance (see section 26-8, HRS)
- e. Department of Business, Economic Development, and Tourism - Director of Business, Economic Development, and Tourism (see section 26-18, HRS)
- f. Department of Commerce and Consumer Affairs - Director of Commerce and Consumer Affairs (see section 26-9, HRS)
- g. Department of Corrections and Rehabilitation - Director of Corrections and Rehabilitation (effective January 1, 2024, pursuant to section 26-14.6, HRS, as amended by Act 278, Session Laws of Hawaii 2022)
- h. Department of Defense - Adjutant General (see section 26-21, HRS)
- i. Department of Education - Board of Education - Chairperson of the Board of Education - Superintendent of Education (see section 26-12, HRS)
- j. Department of Hawaiian Home Lands - Hawaiian Homes Commission - Chairperson of the Hawaiian Homes Commission (see section 26-17, HRS)
- k. Department of Health - Director of Health (see section 26-13, HRS)
- l. Department of Human Resources Development - Director of Human Resources Development (see section 26-5, HRS)
- m. Department of Human Services - Director of Human Services (see section 26-14, HRS)
- n. Department of Labor and Industrial Relations - Director of Labor and Industrial Relations (see section 26-20, HRS)
- o. Department of Land and Natural Resources - Board of Land and Natural Resources - Chairperson of the Board of Land and Natural Resources (see section 26-15, HRS)
- p. Department of Law Enforcement - Director of Law Enforcement (see section 26-14.8, HRS)

- q. Department of Public Safety - Director of Public Safety (prior to January 1, 2024, pursuant to section 26-14.6, HRS, and Act 278, Session Laws of Hawaii 2022)
- r. Department of Taxation - Director of Taxation (see section 26-10, HRS)
- s. Department of Transportation - Director of Transportation (see section 26-19, HRS)
- t. University of Hawaii - Board of Regents - Chairperson of the Board of Regents - President of the University of Hawaii (see section 26-11, HRS)

Note: For the correct names of other administrative agencies and their heads, check the Hawaii Revised Statutes.

For the correct names of county agencies and their heads, check the appropriate county charter.

2. Words and Grammar

- a. **Use words that are plain, clear, well understood, and not ambiguous.** Avoid the use of jargon and idioms, especially in material that will be codified in the Hawaii Revised Statutes. Do not use unnecessary words. Be consistent; do not use the same word or phrase in different contexts. Do not use synonyms.
- b. **Use the present tense and indicative mood:** Use "if it is necessary" instead of "if it shall be necessary"; use "whoever violates" instead of "whoever shall violate." Whenever possible, use the active voice; avoid the use of the passive voice.
- c. **May versus Shall.** Use "may" to express authority, power, or privilege; use "shall" to express a duty, obligation, or requirement; use "shall not" to express prohibition. Use the "comptroller *may*" instead of "the comptroller is hereby authorized"; "the governor *may*" instead of "it shall be lawful for the governor to..." Use "shall" instead of the phrases "is hereby authorized and directed," or "it is the duty." Use "will" to express future tense, but not as a substitute for "shall." Do not use "must" when meaning "shall." Avoid the use of "should" as a step between "may" and "shall"--there is no middle ground.
- d. **Avoid couplets:** use "void" instead of "null and void."
- e. **Use the singular instead of the plural.** The singular includes the plural. See section 1-17, HRS.
- f. **Gender.** Although the masculine includes the feminine (see section 1-17, HRS), do not use gender-specific terms, such as "he" or "she," "his" or "hers," "they" or "theirs"; instead use the antecedent noun or use the word "person" or "individual" or other gender-neutral term. Do not use words such as "chairman" and "salesman";

use gender neutral terms such as "chairperson" and "salesperson." See the examples in item 19 beginning on page 58 of this chapter.

- g. **Do not use "and/or."** See section 1-18, HRS. If necessary, use "or both" (*e.g.*, "this or that, or both," or "this and that, or both").
- h. **Do not use "said" as an adjective.**
- i. **Avoid the use of "such" when referencing a previously described term** (*e.g.*, "such animal," "such lands," "such contract," etc.). However, the word "such" in the phrase "such as" is acceptable.

3. Sections and Units of Organization Within Sections

- a. Keep sentences and paragraphs brief and concise, but do not sacrifice clarity for brevity.
- b. Divide long and involved sections into shorter sections or subsections.
- c. When subdivision of a section is necessary, specific formats and naming designations are used to label the subdivisions. With a few exceptions (see caveat), the Hawaii Revised Statutes uses the following subdivisions and designations:

subsection--(a), (b), (c), etc.

Subsections are the principal divisions of a section and deal with discrete elements of the section. Subsections consist of one or more grammatically complete paragraphs. See item 3(e) on page 39 of this chapter for a discussion on how to determine whether a section is divided into subsections.

paragraph--(1), (2), (3), etc.

Paragraphs, in the statutory drafting sense, are used to break down a subsection that covers a number of contingencies, alternatives, requirements, or conditions. Note that the designation (1), (2), (3), etc. is also used for itemizing lists in a section that does not have subsections.

subparagraph--(A), (B), (C), etc.

Subparagraphs are divisions of a paragraph. Further subdivision should be avoided if possible. (See below.)

clause--(i), (ii), (iii), etc.

Clauses are divisions of a subparagraph and are to be used only where unavoidable (*e.g.*, in a complex tax section, as in section 237-13, HRS).

Caveat. The Penal Code, the Uniform Commercial Code, and other uniform laws differ from the prevalent division and designation usage in the Hawaii Revised Statutes, and each should be consulted when drafting.

The Hawaii Rules of Evidence also differs from the foregoing in that each rule is a large subdivision of a Hawaii Revised Statutes section. For the method of amending the Rules, see chapter 5 beginning on page 100 of this manual detailing the Ramseyer format.

- d. See Example 2-1 on page 23 for an example of the prevalent format for the division and designation of material in the Hawaii Revised Statutes.
- e. How to tell if a section has subsections. A section has subsections if the (a) or (1) (used particularly in Penal Code) occurs immediately after the title of the section and before any substantive language starts.

Example of a section of law with subsections:

§11-372 Reporting loan; written loan agreement.

(a) Every loan shall be reported as provided in section 11-333.

(b) Every loan in excess of \$100 shall be documented as provided in section 11-333.

(c) A loan shall be treated as a contribution, subject to all relevant provisions of this part, if the loan is not reported or documented as provided in section 11-333.

Example of a section of the law found in the Penal Code (or other uniform laws) with subsections:

§708-835.7 **Theft of copper.** (1) A person commits the offense of theft of copper if the person commits theft of copper that weighs a pound or more, but not including legal tender of the United States.

(2) Theft of copper is a class C felony.

Examples of sections of law without subsections:

§5-21 **State dance.** Hula is adopted, established, and designated as the official dance of the State.

or

§11-383 Exceptions. Notwithstanding sections 11-381 and 11-382:

- (1) A party may support more than one candidate; and
- (2) A candidate for the office of governor or lieutenant governor may support a co-candidate in the general election.

f. Cross-references. If referring to another subdivision *within the same section*, include the highest subdivision needed to make the reference clear (e.g., "subsection (d)(2)" indicates paragraph (2) of subsection (d)). A reference to "paragraph (2)" means paragraph (2) of that same subsection; a reference to "subparagraph (B)" means subparagraph (B) of that same paragraph, and so forth.

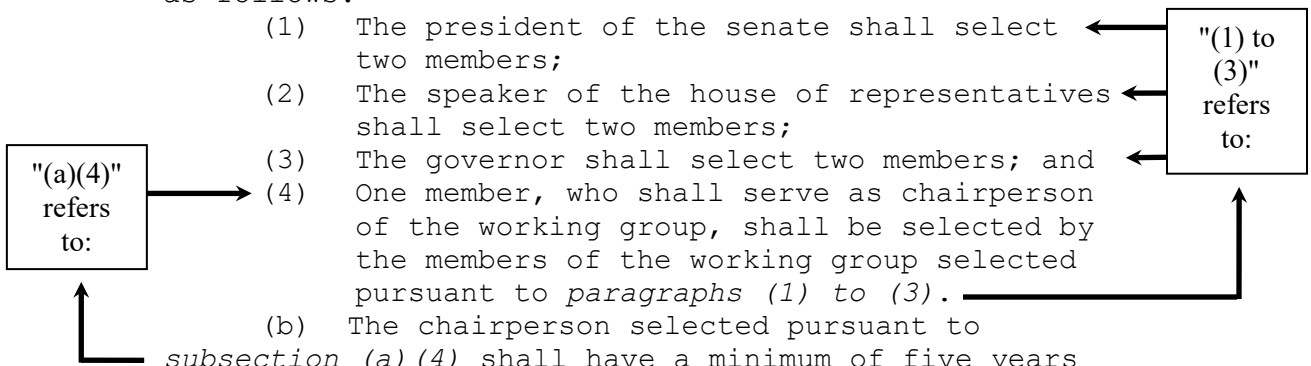
In the following example, the cross-reference to "paragraphs (1) to (3)" in section 000-02(a)(4) refers to the paragraphs (1), (2), and (3) of the same subsection. The reference to "subsection (a)(4)" in section 000-02(b) refers to paragraph (4) of subsection (a) of the same section.

Example:

§000-02 Working group; membership. (a) The working group established pursuant to section 000-01 shall consist of seven members who shall be selected as follows:

- (1) The president of the senate shall select two members;
- (2) The speaker of the house of representatives shall select two members;
- (3) The governor shall select two members; and
- (4) One member, who shall serve as chairperson of the working group, shall be selected by the members of the working group selected pursuant to *paragraphs (1) to (3)*.

(b) The chairperson selected pursuant to *subsection (a)(4)* shall have a minimum of five years of professional experience in planning, land use, or a related field.



When referring to a subdivision of a *different* section, simply refer to the section and indicate the particular subdivision (e.g., section 37-71(c)(1)(D)(i)). When referring to two subdivisions within a subsection of a different section, refer to the section in singular form (e.g., section 37-71(c)(1) and (2)).

4. More on Organization Within Sections

Lower levels of organization within a section (such as subsections, paragraphs, subparagraphs, and clauses) are used similar to how an outline is organized.

- a. Subsections, paragraphs, etc., should not be designated unless there are at least two of them. There should not be a section that contains only a subsection (a) or a list of paragraphs that contains only a paragraph (1). If the text of the statute requires material to be excepted, it may be accomplished using a proviso, as shown in the example below.

✗ The wrong way:

§000-00 **Annual audit.** (a) The books and records of the program shall be subject to an annual audit by an independent auditor; provided that:
 (1) The findings of the audit shall be publicly available.

✓ The right way:

§000-00 **Annual audit.** The books and records of the program shall be subject to an annual audit by an independent auditor; provided that the findings of the audit shall be publicly available.

- b. Sections and subsections should not contain repetitive sets of lower levels of organization. For instance, a subsection should not contain more than one set of numbered paragraphs, as in the following example. Among other problems, a subsection containing more than one set of numbered paragraphs will cause references to become ambiguous. In the following example, a reference to section 000-00(a)(1) is unclear because subsection (a) contains two paragraphs that are designated as paragraph (1):

✗ The wrong way:

§000-00 **Applicability.** (a) This part shall apply to procurements conducted by any:
 (1) State executive branch department, agency, board, or commission; and
 (2) Executive branch department, agency, board, or commission of a county with a population of 500,000 or more;
 provided that this part shall not apply to the following agencies:
 (1) Department of education; and
 (2) University of Hawaii.

To avoid the error in the immediately preceding example, create a new subsection for the second set of lower level organization, if appropriate. If drafting a new section, start over and format the language in a manner that avoids this problem.

✓ **The right way:**

§000-00 Applicability. (a) This part shall apply to procurements conducted by any:

- (1) State executive branch department, agency, board, or commission; and
- (2) Executive branch department, agency, board, or commission of a county with a population of 500,000 or more.

(b) Notwithstanding subsection (a), this part shall not apply to the following agencies:

- (1) Department of education; and
- (2) University of Hawaii.

- c. Do not use lower levels of organization that do not relate to the levels above it. For example, if a subsection contains numbered paragraphs, those numbered paragraphs must logically relate to the other text of the subsection. Similarly, numbered subparagraphs must logically relate to the text of the paragraph that encompasses those subparagraphs. Do not add lower levels of organization merely to make a section more readable.

For instance, in the following example, subparagraphs (A) and (B) (which reference state-level agencies) do not logically relate to their parent paragraph (which refers solely to county-level agencies).

✗ **The wrong way:**

§000-00 Applicability. This part shall apply to procurements conducted by any:

- (1) State executive branch department, agency, board, or commission; and
- (2) Executive branch department, agency, board, or commission of a county with a population of 500,000 or more; provided that this part shall not apply to the following agencies:
 - (A) Department of education; and
 - (B) University of Hawaii.

Because the subparagraphs reference state-level agencies, it is logical to list them under the paragraph that relates to state-level agencies.

✓ **The right way:**

§000-00 Applicability. This part shall apply to procurements conducted by any:

- (1) State executive branch department, agency, board, or commission; provided that this part shall not apply to the following agencies:
 - (A) Department of education; and
 - (B) University of Hawaii.
- (2) Executive branch department, agency, board, or commission of a county with a population of 500,000 or more.

Note: Alternatively, the exclusions could be separated out as a separate subsection (b) as in the example in item 4(b) above.

5. Numbering of Chapters, Parts, and Sections

- a. When adding new chapters, parts, or sections, the designation or numbering of the material should be left to the Revisor of Statutes (in other words, leave the designations blank). See section 23G-15, HRS. For examples of proper prefatory wording concerning the designation of new chapters, parts, or sections, see chapter 5, item 6, beginning on page 116 of this manual.
- b. DO NOT renumber remaining Hawaii Revised Statutes or Session Law sections following a repealed section. This can create problems by making cross references to those sections that are contained in other sections inaccurate.

6. Section Titles

- a. All sections that are to be codified in the Hawaii Revised Statutes should have titles.

Example:

§76-12 General powers and duties of director.

- b. Titles should be short and descriptive. Use phrases rather than sentences.

Example:

§84-17 Requirements of disclosure.

- c. In a compound title, separate the several coordinate subjects by semicolons.

Example:

§103D-906 Preference for small businesses;
set-asides; use as subcontractors.

7. Enumerated Lists

- a. When enumerating items in a list, use an introductory expression that ends in a colon to lead into the enumerated text, such as a paragraph, and make certain that the language in each enumerated item reads as a logical and grammatical continuation of the introductory language.
- b. If the sentence of which an enumeration is a part continues beyond the end of the enumeration, the part of the sentence that follows must be appropriate to each item and must be set apart from the last enumerated item.

Example:

If two or more persons conspire to:

- (1) Commit any offense;
- (2) Instigate or incite one or more persons to commit any offense;
- (3) Bring or maintain any suit or proceeding knowing it to be groundless; or
- (4) Cause another or others to be arrested, charged, or indicted for any offense, knowing them to be innocent thereof;

each shall be guilty of conspiracy.

Caveat. Do not include more than one list of enumerated items within the same subsection. This makes cross-references ambiguous. To avoid the problem, place each list within separate subsections. See item 4(b) on page 41 of this chapter.

8. Relative Pronouns; Restrictive and Nonrestrictive Clauses: "that," "which," and "who"

- a. Relative pronouns. A relative pronoun introduces a subordinate clause that modifies a noun or a pronoun occurring elsewhere in the sentence and connects a dependent clause to the main clause. It is also a substitute word that refers to its antecedent and stands for that antecedent in a subordinate clause.

Examples:

The committee elected the new chair, *who* had years....

The office *that* is responsible for overseeing operations....

The bill, *which* was enacted in 1986, is not effective until 1987.

"Who" relates to a specific person. "That" relates to animals, persons, or things and introduces restrictive clauses. "Which" relates to animals, things, and ideas and introduces nonrestrictive clauses.

Examples:

John Doe, *who* was appointed....

A person *that* commits assault....

The report, *which* was due in November, lists the committee's recommendations.

Note: Although "that" is correct when the person or persons are not specifically identified, many writers prefer to use "who."

b. Restrictive and nonrestrictive clauses. Although the use of "who" is relatively straightforward, the distinction between "that" and "which" eludes many drafters.

(1) That. "That" is the defining or restrictive pronoun. Use "that" to introduce restrictive clauses, which are clauses that are essential to the meaning of the sentence (e.g., clauses that specifically identify the subject or object you are describing). These clauses are not usually set off by commas.

Examples:

The commissioner shall adopt rules that address the concerns identified by this committee.

The department of land and natural resources shall acquire the parcel of land that adjoins the state park.

(2) Which. "Which" is the nondefining or nonrestrictive pronoun. "Which" introduces nonrestrictive clauses, which are parenthetical or commentary in nature. Although they provide additional information about the subject or

object, this information is *nonessential to the meaning of the sentence*. These clauses are generally set off by commas.

Examples:

The suggested rules, *which* reflect the board's new statutory authority, outline the prohibited conduct.

The hearing, *which* was held during the special session, provided the impetus for this additional legislation.

Helpful Hint: If the clause could be omitted without leaving the noun that it modifies incomplete, or without materially altering the meaning, or if the clause could reasonably be enclosed in parentheses, it would be better introduced by "which."

9. Style

The position of words in a sentence indicate their relationship. Poorly placed words result in ambiguity and confusion.

a. Order of verbs and verb phrases

Generally, the subject of a sentence should be followed immediately by the verb (*i.e.*, the action) immediately followed by the direct object. A short adverb may be inserted in some instances, but if possible, longer interruption should be avoided by placing the interrupting clause at the beginning or ending of the sentence, as in this example:

✗ The wrong way:

The corporation, *with the assistance of other agencies of the State and counties with related responsibilities*, shall develop and maintain a housing advocacy and information system to aid the corporation in meeting the needs and demands of housing consumers.

✓ The right way:

With the assistance of other agencies of the State and counties with related responsibilities, the corporation shall develop and maintain a housing advocacy and information system to aid the corporation in meeting the needs and demands of housing consumers.

An exception should be made to this general rule when: (1) a group of words must be understood together; or (2) a relative clause is placed in the sentence (in which case the relative pronoun should come, in most cases, immediately after its antecedent, as in "A person who knowingly disrupts...").

Many sentences in bills have verbs in the infinitive form "to + (verb)" or verb phrases consisting of a helping verb with a main verb: "shall + (verb)," "may + (verb)." Compare the sentences below and notice the increased clarity in sentences where the verb ("adopt") is followed immediately by the object ("rules").

X The wrong way:

The chairperson *may, after a hearing,* adopt rules.

✓ The right way:

After a hearing, the chairperson *may adopt* rules.

or

The chairperson *shall adopt* rules *after a hearing.*

Generally, the words in verb phrases should appear together in a sentence. Sometimes a word is placed between these parts, as in "The commissioner shall immediately order an investigation of a reported epidemic." Although it is generally better not to interrupt the verb parts, particularly when using the infinitive verb form, one-word adverbs in this position do no harm. Longer divisions, however, are difficult to read, as in this sentence:

X The wrong way:

Within ten days after service of the notice of appeal, the appealing party *may in writing, with a copy to the executive officer of the labor relations board and all parties or their representatives of record,* order from the center for alternative dispute resolution a transcript of any parts of the proceedings it considers necessary.

The interrupting words make no sense without the verb "order," but the reader must struggle through over twenty words to reach it. The interrupting words would serve better as a separate sentence as in the example below:

✓ **The right way:**

The appealing party *may order* from the center for alternative dispute resolution a transcript of any parts of the proceedings it considers necessary. The order shall be made in writing and within ten days after service of the notice of appeal. The appealing party shall give a copy of the transcript order to the executive officer of the labor relations board and all parties or their representatives of record.

b. **Modifiers**

A modifier is a word, a phrase, or a clause that qualifies another word, phrase, or clause.

Examples:

- The *escaped* prisoner
- The *executive* officer of the county
- An order *signed by the Governor*
- A document *stating the accused's name*

Placement of modifiers. Similar to verb parts and other word groups, the placement of modifiers in a sentence affects not only readability but meaning as well. Modifiers should be placed as close as possible to the words they modify. When they are not, sentences can be confusing, as in this example:

✗ **The wrong way:**

The public school principal or district superintendent shall inform the private school of the type, level, and location of health services that are to be made available to the private school students *by August 15*.

Are the services to be *made available* by August 15, or is the principal or district superintendent to *inform the school* by August 15? If the drafter meant "... *shall inform the private school* by August 15," the drafter would have improved clarity by writing it this way:

✓ **The right way:**

By August 15, the public school principal or district superintendent shall inform the private school of the type, level, and location of health

services that are to be made available to the private school students.

Here are other examples of misplaced modifiers:

✗ The wrong way:

"Card issuer" means a financial institution ... providing use of a *terminal* to a customer to be *activated by a card*.

Each health facility shall provide *food and beverages* to patients *that are nutritionally adequate*.

Customers usually are not activated by cards, and nutritionally adequate food and beverages, not patients, are the issue.

✓ The right way:

"Card issuer" means a financial institution ... providing use to a customer of a *terminal* to be *activated by a card*.

Each health facility shall provide patients with *food and beverages that are nutritionally adequate*.

- c. Bottom line: Good writing requires effort and clarity. Keep sentences short and clear. Don't be afraid to rewrite sentences, or to break up a long sentence, to avoid ambiguous construction. Above all, proof and edit.

10. Punctuation

- a. Punctuate carefully. Recast the sentence if a change in punctuation might change the meaning.
- b. When words appear in a series, a comma should be placed immediately after the next-to-last word in the series and before the conjunction (commonly called the "Oxford comma").

✓ The right way:

This, that, and the other thing.

✗ The wrong way:

This, that and the other thing.

Note: This rule does not apply to the Hawaii State Constitution. The drafting style used in the Hawaii State Constitution calls for the last comma before a conjunction in a series to be omitted. Accordingly, the second example above would be correct if it appeared in the Hawaii State Constitution. See item 18 on page 57 of this chapter.

- c. Despite the general rule otherwise, punctuation marks always appear outside of quotation marks in the Hawaii Revised Statutes.

Caveat. This rule does not apply to the Hawaii State Constitution. See item 18(b) on page 57 of this chapter.

- d. A nonrestrictive clause is set off by commas, but a restrictive use (*i.e.*, it is essential to the meaning of the word being modified) should not be set off by commas. Compare the following two sentences, which illustrate a restrictive clause and a nonrestrictive clause, respectively:

Men who hate football should stay at home.

Men, who hate football, should stay home.

- e. A comma is used to separate the independent clauses of a compound sentence, but it should not be used to separate the noun from the verb in a simple sentence. The following examples illustrate the proper use and omission of commas in a simple sentence and a compound sentence, respectively:

The board may adopt rules to implement this chapter
and shall report annually to the governor.

The board may adopt rules to implement this chapter,
and the board shall report annually to the governor.

- f. Always place commas before and after the year when used in a date, as in:

For the period from December 1, 2011, through
December 1, 2015, the rate must....

11. Capitalization

- a. Use initial capitals sparingly. Generally, designations of state and county government officers and agencies are not capitalized. References to divisions of the Hawaii Revised Statutes or the Hawaii State Constitution are not capitalized.

Examples:

...the director of taxation.

...as provided in chapter 321.

...as provided in section 321-10.

...as provided in article VIII, section 3, of the state constitution.

- b. Capitalize all references to *Hawaii* and other place names.
- c. Capitalize departments and officers of the United States government, such as the *United States Department of Housing and Urban Development* and *President of the United States*, and full names of federal acts (*e.g., Federal Social Security Act*), and other federal or state acts.

But federal programs such as *medicare* or *supplemental security income* should not be capitalized.

- d. Capitalize names of private organizations, such as the American Red Cross and the Legal Aid Society of Hawaii.
- e. Capitalize *state* when it refers to the State of Hawaii and the usage is as a noun or possessive form of the noun (*e.g., the State's* fiscal condition). Do not capitalize *state* if it is used as an adjective (*state* governor, *state* archives, *state* employee) or refers generally to other states.

Example:

The *State* shall use the *State's* money to assist *state* agencies and county administrations.

- f. Note on capitalization: Capitalize "University of Hawaii" and "Office of Hawaiian Affairs" in the state constitution but not in the Hawaii Revised Statutes or session law (*e.g., "university of Hawaii" and "office of Hawaiian affairs"*).

Use "Native Hawaiian" to describe any person of Native Hawaiian ancestry, and "native Hawaiian" to describe any person with fifty percent or higher Hawaiian blood quantum. See, *e.g.,* sections 201(a) and 207-208, Hawaiian Homes Commission Act of 1920.

12. Reference to Federal Law

- a. Refer to the Internal Revenue Code as Internal Revenue Code of 1986, as amended, except when amending sections 235-2.3 or 235-2.5, HRS, or when referencing the Internal Revenue Code as it is defined in those sections.
- b. Refer to Statutes at Large or Public Law, as appropriate:

Examples:

Section 8 of the United States Housing Act of 1937 (*50 Stat. 888*), as amended.

or

Mortgage Subsidy Bond Tax Act, *P.L. 96-499*.

- c. Citations to the United States Code and the Code of Federal Regulations should be as follows, depending upon whether the citations are used in the text or used parenthetically:

Examples:

In Text

...shall be as provided in *title 21 United States Code section 2475*.

...as adopted in *title 49 Code of Federal Regulations section 571.500*.

Parenthetically

...shall be as provided in *P.L. 99-247 (21 U.S.C. 2475)*.

...as adopted in the Federal Motor Vehicle Safety Standard No. 500, Low Speed Vehicles (*49 C.F.R. 571.500*).

13. Numbers

- a. Spell out numbers generally. Exception: If it takes more than four words to spell out a number, use figures (*e.g., one hundred twenty-two; 1,722*).
- b. Leave out figures where they are merely repetition of written words.

- c. Use Arabic numbers for dates (*e.g.*, January 1, 2013, not first of January, two thousand thirteen).
- d. Sums of money: Use figures for 1 cent to 99 cents; the word "cent(s)" to be spelled out. Use figures for dollars (*e.g.*, \$5,000,000, not \$5 million); omit decimal and zeros from even dollar amounts (*e.g.*, \$1, \$1.25, \$1,500).
- e. Use Arabic numbers for references to section and act numbers.
- f. Use figures to express percentages only if there are multiple percentages being expressed, or if the percentage is not a whole number (*e.g.*, 51.2%). Otherwise, spell the numbers out (*e.g.*, fifty-one per cent).

14. Definitions

- a. Definitional sections and subsections should set forth terms in alphabetical order to facilitate finding a term's definition.
- b. The definitions in a section should not be numbered and should end in a period to facilitate addition of new definitions or repeal of existing ones at a later time.
- c. Use "means" instead of "shall mean" or "shall refer to and means."

Use "means" even when the term being defined is plural (*e.g.*, *bonds*).
- d. For a legal definition that is exhaustive, use "means"; for a definition that is partial, use "includes." If neither of these is accurate, the definition may use "refers to."

Never use the ambiguous expression "means and includes."
- e. If a definition applies to only one section, incorporate the definition in that section and not in the general definition section for a chapter. Typically, definitions applicable to a specific section are set forth as the final subsection in that section.

Example:

(c) As used in this section, "off-hour maintenance work" means maintenance work performed between the hours of six o'clock p.m. and six o'clock a.m.

- f. Do not place substantive or operative provisions in definition sections.
- g. "Person" is defined by general law. See section 1-19, HRS.

- h. If a term is already defined in statute and this meaning is appropriate for the drafter's purposes, use the existing definition by making reference to the section wherein it is defined (*e.g.*, health care provider has the same meaning as in section ...).

15. Provisos; Exceptions; Limitations

- a. Use provisos only for taking special cases out of a general enactment and providing specially for them. If a proviso is to be used, use "; provided that" instead of "; provided, however, that."
- b. Use "except" for specific exceptions, not "provided that."
- c. State the circumstance in which a rule is to apply before stating the rule itself.

16. Choice of Other Words and Phrases

- a. Leave out "of Hawaii" or "of the State" after titles of officers, departments, etc., if not ambiguous. Leave out reference to "department" when referring to executives of state departments (*e.g.*, "the director of taxation," not "the director of the department of taxation").
- b. General references to a "county" or "counties" includes the city and county of Honolulu. See section 1-22, HRS.
- c. Use a specific section or subsection reference instead of "preceding section" or "following section" or "hereinbelow" or "herein."
- d. Use "per cent" instead of "percent," "percentum," or "%."

Caveat. In resolutions, use "percent" not "per cent."
- e. Leave out "inclusive" after "section __ to section __." See section 1-26, HRS.
- f. Use "this section" instead of "the provisions of this section."
- g. Use the most compact identification of sections or subsections (*e.g.*, "section 12-85" or "section 12-85(a)(4)," instead of "section 85 of chapter 12" or "subsection (a)(4) of section 12-85" or "subsection 12-85(a)").

Leave out "of the Hawaii Revised Statutes," or similar references that are superfluous when the reference is in language to be codified in the Hawaii Revised Statutes. If the reference is in language in a Session Law that is not to be codified, specify that the reference is to a section or chapter in the Hawaii Revised Statutes

(e.g., "section 1-26, Hawaii Revised Statutes" or "chapter 91, Hawaii Revised Statutes").

- h. Use "a year" or "each year" instead of "per annum."
- i. Comprise vs. compose. "Comprise" means to include, contain, consist of; "compose" means to make up. Thus, the parts *compose* (make up) the whole. In contrast, the whole *comprises* (contains) the parts. Note that while the use of "of", as in the whole *is composed of* the parts, is correct, the use of "of" is inappropriate and largely redundant with the word "comprise."

Examples:

The parent corporation *comprises* (consists of) three major divisions.

Three major divisions *compose* (make up) the parent corporation.

The parent corporation *is composed of* (made up of) three major divisions.

- j. **Number vs. amount.** "Number" refers to nouns that can be individually counted. "Amount" refers to nouns that cannot be individually counted.

Examples:

The *number* of registered cars in the State has increased substantially in recent years.

The *amount* of traffic on the freeway has increased substantially in recent years.

- k. **Fewer vs. less.** "Fewer" refers to number, individual countable items. "Less" refers to degree or quantity, general amounts.

Examples:

Nonfat milk has *fewer* calories than whole milk.

We have *less* milk than I thought.

- l. Other words and phrases that should be avoided and certain preferred usages are as follows (see item 19 on page 58 of this chapter for gender-neutral terms):

Do Not Use	Use
absolutely null and void	void
aforesaid	-

Do Not Use	Use
and/or	-
are hereby required	shall
at the time	when
be and the same is hereby	is
be deemed to be	is
be subject to forfeiture	-
constitute and appoint	appoint
due to the fact that	because
following section	section 2 (specific number)
for the reason that	because
forthwith	-
from July 1	after June 30
henceforth	-
hereafter	-
hereby	-
herein as provided	as provided in
hereunder	under this section
if he shall have complied	if the person complies
in case	if
in case of	where
in cases in which	when
in order to	to
in the event that	if
is applicable	applies
is defined and shall be construed to mean	means
is hereby authorized	may
is hereby authorized and directed	shall
is hereby authorized and empowered	may
is hereby authorized and it shall be his duty	shall
is hereby created	there shall be
is hereby required	shall
is hereby vested with power and authority and it shall be its duty to	shall
member of a partnership	partner
null and void	void
on and after July 1	after June 30
on his own application	at the person's request
per centum	per cent

Do Not Use	Use
preceding section	section 1 (specific number)
prior to	before <i>or</i> no later than
promulgate...rules	adopt...rules
provided, however,	provided
provisions of law	law
rules and regulations	rules
said	the, that, this
shall be construed to mean	means
shall mean	means
should	may
sole and exclusive	exclusive
State of Hawaii	State
subsequent to	after
under the provisions of	under
utilize	use
whatsoever	-
whether or not	whether
wilful negligence	recklessness

17. Spelling

Generally, spelling should follow the first preferred spelling shown in the dictionary. For example, the Hawaii Revised Statutes uses:

- a. *Canceled* instead of *cancelled*.
- b. *Marijuana* instead of *marihuana*.
- c. *Moneys* instead of *monies*.
- d. *Wilful* instead of *willful*.

18. Style Used in the Hawaii State Constitution

The style used in the Hawaii State Constitution varies from the Hawaii Revised Statutes as follows:

- a. The last comma before a conjunction in a series of three or more items is omitted.
- b. Punctuation marks always appear inside the quotation marks.

- c. The capitalization of article and section numbers is illustrated in the following examples:

Examples:

...established by *section 2* of this *article*....

...established by this *section*....

...established by *Section 2* of *Article XVIII*....

(used when referring to a different article)

- d. *But* if a statute refers to a constitutional provision, use lower case. See item 11(a) on page 50 of this chapter.
- e. The word "percent" within the Constitution is one word.

19. Use of Gender-Neutral Terms

Use gender-neutral (*e.g.*, the person) rather than gender-specific (*e.g.*, he, she) terms wherever possible.

Exceptions:

- a. Terms having long-established legal significance such as "landlord," "manslaughter," or "materialman's lien."
- b. Items or categories having a gender-specific term. For example, "airman" and "seaman" are titles or ranks used by the United States Air Force and Navy. Use of those terms in referring to those specific categories is appropriate, even though not gender-neutral.

Terms that should be avoided and preferred usages are as follows:

Generally

Do not use	Use
actress/actor	actor
businessman	business person
chairman	chairperson, chair
clergyman	clergy
congressman, congresswoman	member of Congress, representative
councilman	council member
draftsman	drafter
fireman	firefighter
fisherman	commercial marine licensee, fisher

Do not use	Use
flagman	flagperson
foreman	foreperson
he/she/him/her	the person, the (relevant noun; <i>e.g.</i> , judge)
herself/himself	the person's self, oneself
journeyman	journey worker, journey + (relevant noun; <i>e.g.</i> , plumber)
juryman	juror
lawman	law enforcement officer
layman	layperson, laymember
maid	domestic worker
maiden name	birth name
mailman	mail carrier, postal worker
man (noun)	person, individual, human, humanity
man (verb)	staff, operate
man-hour	worker hour
man-induced	artificially or synthetically induced
mankind	humanity, humans, human beings, people, persons
manlift	elevator, lift
manmade	artificial, synthetic
manpower	personnel, workforce, labor force, human resources
middleman	intermediary
nurseryman	nursery worker or operator
patrolman	patrol officer
policeman	police officer
repairman	repair person
salesman	salesperson
serviceman (military)	service member
serviceman (nonmilitary)	service person
spokesman	spokesperson
statesman	diplomat, leader
statesmanlike	diplomacy
statesmanship	diplomacy, leadership
vice-chairman	vice-chairperson, vice-chair
waiter/waitress	waitperson, server
warehouseman	warehouse worker
watchman	guard, security guard
woman	person, individual, human, humanity
workman	worker
workmanlike	skillful, efficient

Family Status

Do not use	Use
daughter, son	child
stepdaughter, stepson	stepchild

Do not use	Use
sister, brother	sibling
mother, father	parent
stepmother, stepfather	stepparent
wife, husband	spouse
widow, widower	surviving spouse
grandmother, grandfather	grandparent

"-Ess" and "-Trix" Endings

The feminine gender suffixes "-ess" and "-trix" should be avoided. Among the objections to these terms are that: they perpetuate the notion that the male is the norm and the female is a deviation or secondary classification; and they specify a person's sex where gender is irrelevant.

Do not use	Use
administratrix	administrator
benefactress	benefactor
executrix	executor
heiress	heir
mediatrix	mediator
prosecutrix	prosecutor
stewardess	flight attendant
testatrix	testator

20. Acronyms

Do not use acronyms (*e.g.*, DOH, DCCA) in the text of statutes. While convenient to the drafter, they tend to clutter the text, making it difficult for the uninitiated. This problem is not cured by defining the acronym.

The following is an extreme example of how acronyms can develop into an impenetrable mass, which would be difficult to read even if the terms had been defined.

Example:

Guidance to USCINCPAC OPCON forces on application of CJCS SROE, USCINCPAC Theater-Specific Rules and CINCUNC/CFC Armistice Period ROE shall be implemented in USINDOPACOM by USCINCPAC regulation S3710.2G.

However, in certain cases where the official name of an entity is an acronym (*e.g.*, NMLS), inclusion of the acronym in the Hawaii Revised Statutes is acceptable.

Note: This prohibition on the use of acronyms does not apply to the report title and bill description portions of bills drafted on the Legislature's electronic drafting platform. See chapter 2, part II, item 6, on page 19 of this manual.

Chapter 4

SOME COMMON STATUTORY PROVISIONS AND PROBLEM AREAS

Part I. Generally

While the process of bill drafting requires the drafter to be mindful of all manner of issues, both technical and substantive, the Hawaii Revised Statutes contains certain common statutory provisions that serve to assist the drafter in not having to "reinvent the wheel" when drafting. This chapter discusses these common statutory provisions and their use as well as identifies certain reoccurring problem areas and how to avoid them.

Caveat. Care must be taken in using any standardized provision; it should not be used indiscriminately or blindly and should be examined carefully to determine whether it fits the situation or needs modification.

1. Penalties

a. Criminal Penalties

Any person who violates this section shall be guilty of a misdemeanor.

or

Violation of this section shall be a class C felony.

A criminal penalty is a penalty imposed upon a person who has been convicted of committing a crime. Criminal penalties may include a fine, a period of imprisonment, or both.

When establishing criminal penalties, use the *categories* of offenses established in the Penal Code. The maximum fine and prison term is specified for each category of offense. These categories are as follows:

- (1) **Petty misdemeanor:** No more than \$1,000 fine and 30 days imprisonment. See sections 706-640 and 706-663, Hawaii Revised Statutes (HRS).
- (2) **Misdemeanor:** No more than \$2,000 fine and 1 year imprisonment. See sections 706-640 and 706-663, HRS.
- (3) **Class C felony:** No more than \$10,000 fine and 5 years imprisonment. See sections 706-640 and 706-660, HRS.

- (4) **Class B felony:** No more than \$25,000 fine and 10 years imprisonment. See sections 706-640 and 706-660, HRS.
- (5) **Class A felony:** No more than \$50,000 fine and 20 years imprisonment. See sections 706-640 and 706-659, HRS.

For particular crimes, extended or mandatory sentences, higher fines, young adult defendants, etc., see the Penal Code, chapters 701 to 712A, HRS.

Do *not* simply establish specified fines and prison terms without categorizing the offense (*e.g.*, "Violations shall be punishable by X years imprisonment, a fine of \$400, or both"). By specifying the category of offense, it becomes unnecessary to also specify the maximum fines and prison terms because these are already set by the statutory sections referenced above. In fact, subject to the exceptions explained below, specifying both the category of the offense and the maximum fine and prison term may create a conflict as to the actual category of offense (*e.g.*, a prison term longer than that called for the specified category may change the category to one different than specified) and the rights accorded to a person accused of committing the offense (*e.g.*, right to jury trial).

A drafter desiring to impose mandatory minimum penalties can do so while using the existing offense categories.

Example:

Violation of this section is a misdemeanor; provided that a person convicted under this section shall be sentenced to a definite term of imprisonment, pursuant to section 706-663, of not less than thirty days without possibility of probation or suspension of sentence.

Note: A penalty that contains no possibility of imprisonment might be easier to enforce if classified as a civil penalty. However, under certain circumstances, a civil penalty that exceeds the fine for similar conduct that may also be a crime may be treated as a criminal offense by the courts, even if there is no possibility of imprisonment.

b. Civil Penalties

Any person who violates this chapter or any rule adopted by the department pursuant to this chapter shall be fined not more than \$10,000 for each separate offense. Each date of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.

A civil penalty is another type of remedy imposed for the violation of a law. Unlike a criminal penalty, a civil penalty does not give the violator a criminal record, nor does the violator face imprisonment. Instead, a civil penalty is typically imposed as a fine.

See also Penal Code, sections 701-107 and 706-640, HRS, concerning violations.

c. Administrative Penalties

The commission may set, charge, and collect administrative fines or bring legal action to recover administrative costs of the commission or the department, payment for damages, or for the cost to correct damages resulting from a violation of this chapter or any rule adopted thereunder.

or

The department, after notice and opportunity for hearing, may fine any person who violates this part, or any rule adopted under this part, not more than \$1,000 for each separate offense. Each day or instance of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this paragraph shall be considered a civil action.

An administrative penalty is a type of civil penalty that is first adjudicated by an executive branch department or agency.

2. Effective Dates

a. Generally

This Act shall take effect upon its approval.

Unless otherwise required, bills are normally drafted so as to take effect upon approval. "Upon approval" means the date on which the bill is signed by the Governor, or passage of the deadline after which the bill takes effect without the Governor's signature.

Consideration should also be given to the time that may reasonably be required for affected agencies and the public to become aware of and adjust to changes in the law. While perhaps an extreme example, a bill making it a crime to own a car that is painted any color other than black would catch many people unaware if made effective upon approval. Having the bill take effect on September 1 or January 1

of the following year would provide some time for notice to the public to paint their cars.

Appropriation measures. Except for emergencies (see chapter 7, part V, item 2, on page 150 of this manual), appropriation bills are drafted to take effect on July 1 to coincide with the beginning of the State's fiscal year.

Special purpose revenue bond measures. The authorization for the issuance of special purpose revenue bonds pursuant to chapter 39A, HRS, is limited to a time period not to exceed five years. Thus, for bills authorizing the issuance of special purpose revenue bonds, the bill should establish a clear, specific effective date (*e.g.*, "shall take effect on July 1, 20XX") to facilitate the ease of calculating the five-year time period. See Examples 7-6 and 7-7 beginning on page 166 of this manual.

b. **For Tax Measures**

To provide enough time to prepare for the administration of a new tax law, the effective date for tax measures should be either on January 1 or July 1 of a particular year.

- (1) Generally, tax measures affecting the Income Tax Law (chapter 235, HRS) are made effective on January 1, although corporate tax increases may begin on July 1. Also beginning in January are amendments to the Public Service Company Tax Law (chapter 239, HRS), the Public Utilities; Franchise Tax Law (chapter 240, HRS), the Taxation of Banks and other Financial Corporations Law (chapter 241, HRS), and the taxation of insurance premiums (section 431:7-202, HRS).

Example:

This Act, upon its approval, shall apply to taxable years beginning after December 31, 20__.

- (2) Generally, tax measures affecting the Estate and Transfer Tax Law (chapter 236D, HRS), the General Excise Tax Law (chapter 237, HRS), the Transient Accommodations Tax Law (chapter 237D, HRS), the Use Tax Law (chapter 238, HRS), the Fuel Tax Law (chapter 243, HRS), the Liquor Tax Law (chapter 244D, HRS), the Cigarette Tax and Tobacco Tax Law (chapter 245, HRS), and the Conveyance Tax Law (chapter 247, HRS) may take effect on July 1.

Example:

This Act shall take effect on July 1, 20__.

See chapter 8 beginning on page 185 of this manual for additional guidance on tax legislation.

c. **Retroactive Effective Date**

Section 1-3, HRS, provides that no law shall have "any retrospective operation, unless otherwise expressed or obviously intended." In bills that have a specific effective date (e.g., "This Act shall take effect on July 1, 2021"), the specified date serves as evidence of "obvious intent of retrospective operation" if the bill becomes law after the specified effective date. However, there may be times where the drafter may wish to specifically state that the Legislature intends for a bill to have retroactive effect. The following language may be used to accomplish this.

Example:

This Act, upon its approval, shall take effect retroactive to January 1, 20__.

d. **Effective Dates for Different Parts of the Same Bill**

In some measures, it may be appropriate to establish different effective dates for different provisions of the bill.

Example:

This Act shall take effect upon its approval; provided that section 3 shall take effect on October 1, 20__, and section 5 shall take effect on July 1, 20__.

e. **For Bills Amending the Hawaii State Constitution**

The effective date of a bill proposing an amendment to the Hawaii State Constitution typically references Article XVII, section 3, of the state constitution, which establishes the process by which a constitutional amendment proposed by the Legislature may be ratified.

Example:

This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

3. Rulemaking Powers

a. Generally

Chapter 91, HRS, establishes procedures for state and county agencies, except those in the legislative or judicial branches of government, to adopt rules or adjudicate contested cases. The following language authorizes the head of an agency to adopt administrative rules pursuant to chapter 91, HRS, to implement the provisions of a law:

Example:

The director [department, board, commission, etc., as appropriate] shall adopt rules pursuant to chapter 91 necessary for the purposes of this chapter.

Caveat. Chapter 91, HRS, provides that rules may be *adopted, amended, or repealed*. Rules are not *promulgated* nor are *regulations authorized* by chapter 91, HRS. Use the term "regulations" only when referring to federal regulations.

b. Expedited Rulemaking

Rules adopted to implement this chapter shall be exempt from the public notice and public hearing requirements of chapter 91.

Note: Rather than exempting an agency from complying with the entirety of chapter 91, HRS, this provision exempts the agency from the relatively time-consuming aspects of the Hawaii Administrative Procedure Act. With this exemption, the agency would need only to have the proposed rules approved by the Governor and filed with the Lieutenant Governor. For an example of a law that also exempts certain proposed rules from gubernatorial approval, see section 103D-202, HRS.

4. Disposition of Public Moneys Received

When drafting legislation that provides for the collection of fees, be sure to specify a particular fund or funds into which the public moneys received shall be deposited.

Example:

All fees received by the department pursuant to this section shall be deposited into the general fund [or to any other special or revolving fund specified by the requesting legislator] of the State.

5. Lapsing of Appropriation

a. Generally

A lapse date is the date on which an agency's authority to spend appropriated moneys ends. An appropriation lapsing provision is not necessary for general obligation bond funds or general funds under article VII, section 11, of the Hawaii State Constitution. Specifically, unexpended and unencumbered general obligation bond funds and general funds are automatically lapsed by law at the end of the fiscal period in which the funds were appropriated (*e.g.*, an appropriation of general funds for fiscal year 2021-2022 will lapse on June 30, 2022, the date on which fiscal year 2021-2022 ends). Appropriations from other funds should be lapsed. See the discussion on lapsing in chapter 7, part V, item 4, on page 152 of this manual.

b. Nonlapsing of Appropriation

Although moneys will generally lapse at the end of the fiscal period in which the moneys were appropriated, the Legislature may specify a different lapse date in the initial appropriation or may take action in a subsequent legislative session to delay the scheduled lapse of the appropriation by specifying a new lapse date:

Example:

The appropriation made by this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all moneys from the appropriation unencumbered as of June 30, 20XX, shall lapse as of that date.

6. Relationship to Another Pending Bill

If Senate Bill No. _____ is passed by the legislature during the regular session of 20__, whether before or after the effective date of this Act, the corresponding provisions of Senate Bill No. _____ shall be amended to conform to this Act.

or

All acts passed by the legislature during the regular session of 20__, whether enacted before, on, or after the effective date of this Act, shall be amended to conform to this Act unless such acts specifically provide that this Act is being amended.

or

This Act shall take effect on January 1, 20__, only if House Bill No. _____ in any form passed by the legislature during the regular session of 20__, becomes an Act.

or

The substantive provisions of this Act shall amend any other conflicting Act passed by the legislature during the regular session of 20__, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made to section _____, Hawaii Revised Statutes, by any other Act passed by the legislature during the regular session of 20__.

or

In a codification bill intended to restate existing law without substantive change:

Any act relating to the _____ passed by the legislature during the regular session of 20__ shall be effective according to its terms, notwithstanding the passage of this Act, and any provision of this Act that is contrary to such act shall be amended to conform to that act, regardless of the effective date of that act. The revisor of statutes shall incorporate the terms of any such act into their appropriate places in this Act.

7. Exception for Unique Situation

Notwithstanding any other law to the contrary, any antique motor vehicle shall be issued a special number....

8. Application of Law to a Specific County

Article VIII, section 1, of the Hawaii State Constitution prohibits the application of a substantive law to a county by name. However, laws may include language that limits the effect of the law to counties with a certain population or comprising a certain number of islands.

Examples:

In any county with a population of five hundred thousand or more....

or

In any county that comprises three or more populated islands....

Note: Article VIII, section 1, of the Hawaii State Constitution also limits the repeal or amendment of those provisions that were enacted before the Hawaii State Constitution was adopted and that specifically apply to a county by name, such as chapters 61 to 70, HRS, as they existed in the 1985 replacement volume. See Attorney General Opinion No. 62-11. These statutes may be superseded by general amendment relating to all counties or to counties with a certain population. See section 46-81, HRS; Act 263, Session Laws of Hawaii 1988; and Attorney General Opinion No. 87-1.

9. Establishment of a Board or Commission

a. Generally

Section 26-34, HRS, covers advice and consent of the Senate, terms of appointment, staggered terms, limitation on appointments, filling of vacancies, removal, and suspension. Accordingly, instead of repeating those provisions in a bill that establishes a new board or commission, the drafter may simply cross-reference section 26-34, HRS, using the language in the example below.

There is established within the department of _____ for administrative purposes the _____ commission consisting of _____ members appointed by the governor as provided in section 26-34.

b. Who Should Appoint the Members?

When establishing a board, other than an advisory board, in a particular branch of government (*e.g.*, the executive), do not designate an appointing authority from a different branch of government (*e.g.*, the legislative). See Senate Standing Committee Report No. 53 on Senate Bill No. 303 and House Standing Committee Report No. 455 on House Bill No. 339, Regular Session of 1971, for testimony of the Attorney General on this point. However, persons from different branches of government may submit names of nominees for appointment, from which the head of the particular branch (*e.g.*, Governor) would select.

Example:

The governor shall appoint _____ members from a list of nominees submitted by the speaker of the house of representatives and _____ members from a list of nominees submitted by the president of the senate.

c. **Professional and Vocational Licensing Boards**

When establishing a board to regulate and license a profession or occupation, some of the members of the board will be required to be licensed members of the profession or occupation being regulated. However, in providing for the appointment of licensed members to the initial board, these members must be exempted from the licensing requirement because the licensing mechanism will not have been established until the board is in operation.

d. **Attachment for Administrative Purposes**

Hawaii generally does not have "freestanding" boards and commissions. All are placed within a department or other agency for administrative purposes. However, article V, section 6, of the Hawaii State Constitution provides that *temporary* commissions or agencies for special purposes need not be allocated within principal departments. For example, see Act 84, Session Laws of Hawaii 1995.

10. No Compensation for Members of Boards and Commissions

The members of the _____ commission shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

Note: During poor economic conditions, the trend has been not to include reimbursement for travel expenses for member of temporary task forces or working groups.

11. Appointment of Representatives from Private Entities

When establishing task forces, advisory boards, or working groups, the Legislature frequently seeks the participation of representatives from private entities. The drafter should be aware that using language that *requires* representatives from specific private entities to participate may be unlawful. Instead, the measure should either: request, rather than mandate, that the representative serve on the working group; or request that a public official *select or invite* representatives (who are then presumably willing to serve) from the private entity.

Examples:

The director of health shall invite one representative from the following organizations to serve as task force members:

- (1) A residential mental health or substance abuse treatment facility;
- (2) The Healthcare Association of Hawaii;
- (3) Hawaii Pacific Health....

or

The working group shall consist of:

- (1) An attorney in private practice with knowledge of sports gambling, to be appointed by the governor;
- (2) A member of the public with knowledge of sports gambling, to be appointed by the president of the senate; and
- (3) A member of the public with knowledge of sports gambling, to be appointed by the speaker of the house of representatives....

Although task forces and working groups are sometimes established by statute, the Legislature frequently creates these entities by resolution. See Example 9-12 on page 325 of this manual.

12. Employment or Appointment of Noncivil Service Personnel

The commission, without regard to chapter 76, may appoint and terminate an executive director and other additional personnel as are necessary to enable the commission to perform the duties of the commission. The commission may fix the compensation of the executive director and other commission personnel.

or

The administrator may employ and retain such officers and employees as may be necessary to carry out the functions of the office. The officers and employees may be hired without regard to chapter 76 and shall serve at the pleasure of the administrator; provided that the officers and employees shall be included in any benefit program generally applicable to officers and employees of the State.

or

The governor shall appoint a _____, without regard to chapter 76, who shall serve at the pleasure of the governor. The _____ salary shall be within the range of salaries paid deputy directors of the departments of the state government. The _____ shall be a

member of the state employees' retirement system and shall be eligible to receive the benefits of any state employee benefit program generally applicable to officers and employees of the State.

Note: Employees or appointees should also be exempted from chapter 89, HRS, if they are to be exempted from collective bargaining for public employees.

13. Transfer of Officers and Employees from One Agency to Another

All rights, powers, functions, and duties of the department of _____ are transferred to the department of _____.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

If an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

**14. Transfer of Functions Between Agencies;
Continuity of Rules, Policies, etc.**

All rules, policies, procedures, guidelines, and other material adopted or developed by the department of _____ to implement provisions of the Hawaii Revised Statutes that are reenacted or made applicable to the department of _____ by this Act shall remain in full force and effect until amended or repealed by the department of _____ pursuant to chapter 91, Hawaii Revised Statutes.

In the interim, every reference to the department of _____ or director of _____ in those rules, policies, procedures, guidelines, and other material is amended to refer to the department of _____ or director of _____, as appropriate.

(See section 21 of Act 152, Session Laws of Hawaii 2021.)

**15. Transfer of Functions; Effect on Deeds,
Contracts, Permits, etc.**

All deeds, leases, contracts, loans, agreements, permits, or other documents executed or entered into by or on behalf of the department of _____, pursuant to the provisions of the Hawaii Revised Statutes, that are reenacted or made applicable to the department of _____ by this Act shall remain in full force and effect. Upon the effective date of this Act, every reference to the department of _____ or the director of _____ therein shall be construed as a reference to the department of _____ or the director of _____, as appropriate.

(See section 15 of Act 56, Session Laws of Hawaii 2019.)

**16. Transfer of Records and Equipment
Between Agencies**

All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of _____ relating to the functions transferred to the department of _____ shall be transferred with the functions to which they relate.

17. Providing Against the Impairment of Federal Funds and Bonds

It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

or

If any part of this Act is found to be in conflict with federal requirements that are a prescribed condition for the allocation of federal funds to the State, the conflicting part of this Act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this Act in its application to the agencies concerned. The rules under this Act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the State.

18. Drop Dead Provisions

a. New Legislation

In some instances, the Legislature may wish to enact legislation for a limited period of time. The time limit may be imposed to allow the Legislature to review the legislation's effect or the manner in which the legislation has worked. The time limit also may be imposed because the legislation may only be necessary for a limited period of time.

Examples:

(1) Act 267, Session Laws of Hawaii 2019:

SECTION 3. This Act shall take effect on July 1, 2019, and shall be repealed on December 31, 2024.

(2) Act 9, Session Laws of Hawaii 2018:

SECTION 3. This Act shall take effect upon its approval and shall be repealed on June 30, 2023.

b. **Temporary Amendments to Existing Statutes**

See Part III of this chapter beginning on page 81 for a discussion of the more complex issue of statutory language that is amended for a temporary period and then reverts to the original form.

19. Act Contingent Upon Ratification of Constitutional Amendment

Constitutional amendments must be ratified by the voters at a general election before they can take effect. A bill to implement a constitutional provision that has not yet been ratified cannot itself become effective before the constitutional provision. Consequently, any bill that contains statutory provisions that are reliant upon the ratification of a constitutional amendment should include an effective date similar to the following:

SECTION _____. This Act shall take effect upon its approval and upon ratification of a constitutional amendment requiring the election of the attorney general.

In the example above, the bill would only become effective if a constitutional amendment was ratified that changed the position of Attorney General from an appointed position to an elected one.

20. Impairment of Contracts

This Act shall not be applied so as to impair any contract existing as of the effective date of this Act in a manner violative of either the Constitution of the State of Hawaii or Article I, section 10, of the United States Constitution.

21. Carryover of Appropriated Funds Into Second Year of Fiscal Biennium

The [agency or program name] may carry over unexpended and unencumbered funds into the second year of a fiscal biennium. At the end of the fiscal biennium, the [agency

or program name's] unexpended and unencumbered funds shall be returned to the general fund in accordance with section 40-66, Hawaii Revised Statutes.

22. Special or Revolving Funds

a. Establishment

(a) There is established in the state treasury the XYZ special [or revolving] fund, into which shall be deposited:

[List sources of revenue to be earmarked for fund; e.g.,]

- (1) All revenues from the operations of the...;
- (2) All proceeds from revenue bonds issued by...; and
- (3) Appropriations made by the legislature to the fund.

(b) Moneys in the XYZ special [or revolving] fund shall be used for the following purposes:

[List purposes for which use of proceeds of fund are authorized]

b. Transfer of Excess Amounts to General Fund

All unexpended and unencumbered moneys remaining in the [name of fund] at the close of each fiscal year that are deemed, by the director of finance, to be in excess of the moneys necessary to carry out the purposes of this section over the next following fiscal year shall lapse to the credit of the state general fund.

c. Minimum and Maximum Limits

Any amount to be deposited into the special [revolving] fund from the revenues collected under this chapter that causes the special [revolving] fund to exceed \$_____ shall be deposited into the general fund. No further deposits from the revenues collected under this chapter shall be made into the special [revolving] fund until the balance of the special [revolving] fund drops below \$_____, in which event the two and one-half per cent [or other specified amounts] of the revenues collected under this chapter shall be deposited into the special [revolving] fund until the balance equals \$_____.

23. Numerous Instances of Identical or Very Similar Amendments

In some instances, where changes are being made to a number of sections, and these are the only changes being made in each section, the amendments can be made by listing the sections to be amended and describing the change to be made. This is easier than setting out the text of each section or subsection affected.

Example:

SECTION _____. Sections 000-0, 000-1, 000-2, 101-10, 125-35, and 247-9, Hawaii Revised Statutes, are amended by substituting the word "_____", or similar term, wherever the word "_____", or similar term, appears, as the context requires.

For an example, see Act 153, Session Laws of Hawaii 2021, sections 8 and 9. This Act integrated the Land Use Commission into the Office of Planning and renamed the "Office of Planning" as the "Office of Planning and Sustainable Development." Section 8 of Act 153 amended a number of sections of the Hawaii Revised Statutes to reflect the new name of the office. Section 9 made the same change to any other Acts enacted by the 2021 regular session.

See also Act 203, Session Laws of Hawaii 2018, sections 2 through 9, which removed the term "examiners" from the titles of certain professional and vocational licensing boards that no longer administered examinations.

Caveat. In using this approach, each change must be capable of being made by *direct word-for-word substitution*. If word-for-word substitution cannot be accomplished, then amend in the usual manner, by setting out the text.

24. Cross-Referencing Multiple New Sections Added to a Chapter

In situations where new sections to the Hawaii Revised Statutes are being cross-referenced in the bill, accurate cross-referencing may be achieved by using letters to designate the respective new sections. For example, rather than having several sections all numbered "section 123- ", the respective sections may instead be numbered 123-A, 123-B, 123-C, 123-D, and so forth.

If this method of cross-referencing is used, the following provision should be included toward the end of the bill, usually immediately preceding the Ramseyer instructions paragraph (see chapter 5, item 9, on page 130 of this manual).

SECTION _____. In codifying the new sections added by sections ____ and ____ [*and referenced in

sections ____ and ____] of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

See Example 4-1 on page 92 of this chapter for an example of a bill that uses this method to cross-referencing.

Note: Use only if the "alphabetized" section numbers are referred to in other sections of the bill, such as amended Hawaii Revised Statutes sections, transition provisions, or effective date.

25. Other Frequently Used Statutory Provisions

There are other frequently used statutory provisions in addition to those discussed in this chapter, including:

- a. Exceptions, provisos, and savings clauses (see chapter 2, part II, item 4(p), on page 16 of this manual).
- b. Severability clauses (see chapter 2, part II, item 4(q), on page 17 of this manual).
- c. Ramseyer instructions paragraph (see chapter 5, item 9, on page 130 of this manual).

26. Imposition of Mandatory Health Insurance Coverage

a. Assessment by Auditor

Section 23-51, HRS, provides that the Legislature generally must request the Auditor to prepare and submit a report assessing the social and financial effects of measures that propose mandatory health insurance coverage. This request is done in the form of a concurrent resolution. See chapter 9, part III, item 2(e), on page 301 of this manual for information about drafting resolutions that request the Auditor to prepare this type of assessment.

Note that in some instances, the Legislature has passed measures imposing mandatory health insurance coverage without first requesting the Auditor to perform the assessment described in section 23-51, HRS. For example, see section 5 of Act 204, Session Laws of Hawaii 2016, and the explanatory note in Senate Standing Committee Report No. 3043, Regular Session of 2016.

b. Statutory Provisions

When drafting a bill mandating health insurance coverage, be sure to include all relevant information, including the specific health service, medical condition, or

procedure to be covered; the extent of the coverage; target groups to be covered; any limits on utilization; and standards of care. To ensure that the mandate applies to all types of health insurers, the provisions should be added to chapters 431 (Insurance Code) and 432 (Benefit Societies), HRS, and section 432D-23, HRS (Health Maintenance Organizations), should be amended to cross-reference the provision being added to chapter 431, HRS.

See Example 4-2 on page 96 of this chapter for a sample mandatory health insurance coverage bill.

For recent examples of mandatory health insurance coverage measures, see Act 204, Session Laws of Hawaii 2016 (requiring insurers to provide coverage for annual screenings for sexually transmitted diseases) and Act 235, Session Laws of Hawaii 2015 (requiring insurers to provide coverage for the diagnosis and treatment of autism).

27. Recurring Measures

In addition to the foregoing suggestions, the drafter may want to refer to the following acts for guidance in drafting certain bills or provisions that are likely to be considered at any regular legislative session:

- a. Transfer of boards and commissions, functions, personnel, or property within the structure of state government: Act 180, Session Laws of Hawaii (SLH) 2006, part VI, sections 20 to 24; Act 177, SLH 2013, sections 4 to 11; and Act 56, SLH 2019, sections 12 to 15.
- b. Claims against the State: Act 11, SLH 2020.
- c. Authorizing suits against the State: Act 156, SLH 2016.
- d. Transfer of functions from county to State: Act 97, SLH 1965 (See also Act 167, SLH 2007, for an example of an Act that transfers personnel from the counties to the State).
- e. Transfer of functions from State to counties: Act 208, SLH 2021.
- f. Issuance of Special Purpose Revenue Bonds: Act 45, SLH 2019. (See also chapter 7, part IV, item 5, beginning on page 147 of this manual.)
- g. Declaration of Findings with Respect to General Obligation Bonds Authorized for Issuance: Act 249, SLH 2019.
- h. Disposition of Excess Revenues through an Income Tax Credit: Act 85, SLH 1994; and Act 115, SLH 2022.

Part II. Making Technical and Grammatical Corrections to Existing Statutes

Errors creep into statutes for various reasons. Many persons with varying degrees of expertise draft legislation that is ultimately enacted into law. Typographical errors occur, and statutes are sometimes amended without amending related statutes. Therefore, in addition to making the required substantive changes, legislative drafters should scrutinize the existing statute being amended for technical and grammatical accuracy. At a minimum, the drafter should be alert for the following:

1. Check internal statutory cross-references to determine if the section or cite reference has been renumbered, amended, or repealed.
2. Correct spelling.
3. Add commas before conjunctions with words in a series in statutory provisions in the Hawaii Revised Statutes. See chapter 3, item 10, on page 49 of this manual.
4. Correct capitalization, particularly of the word State. See chapter 3, item 11, on page 50 of this manual.
5. Numbers should be written out if appropriate. See chapter 3, item 13, on page 52 of this manual.
6. Correct word usage. See chapter 3 beginning on page 35 of this manual.

Caveat. When making these corrections, drafters should keep in mind the larger legislative objective. For example, if a bill has crossed over into the second house, making technical or grammatical corrections when no other, substantive amendments are being made may frustrate the objective (which is to enact legislation) by adding unnecessarily to the number of bills going to conference committee or that otherwise must be kept track of later in the session.

Part III. Temporary Amendments to Laws and "Drop Dead" Provisions

In recent years, the number of measures enacting temporary amendments to laws has increased. These amendments "drop dead" (*i.e.*, are repealed) on a specified date, and the law is reenacted to revert to its preexisting form. These so-called repeal and reenactment provisions (often referred to as "drop dead" provisions) may be used to force the legislative and executive branches to review, at a later date, the amendments or provisions being enacted to determine their impact, performance, etc. However, these provisions can create drafting problems in the future if it is not clear how the law will read when the amendments drop dead. Even when written clearly, these provisions may leave the status of applicable law unclear to some readers and may cause other problems for future drafters. Accordingly, "drop dead" provisions should be used sparingly,

especially if there are other ways to address a problem that do not involve repeal and reenactment provisions.

The following is a typical example of a simple drop dead and reenactment provision.

SECTION ____ . This Act shall take effect upon its approval; provided that on June 30, 2028, section 1 of this Act shall be repealed and section 000-00, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act.

Under this language, it is clear that section 1 of the Act is repealed and the provisions of the Hawaii Revised Statutes are reenacted in the form in which they existed as of a specific time, so that there is no confusion or inadvertent repeal of statutory provisions.

However, this language is insufficient to address the more complex issue that arises if there are intervening amendments made to the law that are intended to survive a repeal and reenactment provision. For example, if any amendments have been made to the provisions of section 000-00, HRS, between the effective date of the Act referred to above and the repeal date of June 30, 2028, the intervening amendments will be repealed as of June 30, 2028, under the foregoing language because section 000-00 will be reenacted in the form in which it read *before all intervening amendments*.

The failure to properly address repeal and reenactments can have real consequences. For example, during the 1991 legislative session, the Legislature failed to address a drop dead and reenactment provision for section 103-22, HRS, that was originally enacted by Act 229, Session Laws of Hawaii 1987, and extended by Act 200, Session Laws of Hawaii 1989. Between 1987 and 1991, the Legislature made further amendments to section 103-22, HRS, in 1988, 1989, and 1990, which included the addition of two subsections, including an authorization for the Department of Health to make emergency purchases of medical equipment. However, the 1988, 1989, and 1990 laws did not properly address the 1987 repeal and reenactment provisions. Accordingly, on July 1, 1991, all of the amendments made to section 103-22, HRS, in 1987, 1988, 1989, and 1990 were lost when section 103-22, HRS, was repealed and an older version of that section was reenacted in its place.

The drafter should be aware of the most common ways to address this issue. The first step, however, is to determine whether the statutory provisions being amended will drop dead. The second step is to determine whether any subsequent intervening amendments are intended to be preserved.

The Revisor of Statutes has taken care of this first step for the drafter. Sections or parts of sections of Hawaii Revised Statutes that will be repealed, or repealed and reenacted, contain Revisor notes in italics at the beginning of the section or provision indicating the repeal and, if applicable, the reenactment of the provision. See for example, section 201H-36, HRS, in the 2019 supplement, which states:

§201H-36 Exemption from general excise taxes. (a)
[Repeal and reenactment on June 30, 2030. L 2018, c 39, §4.]

1. Scenarios and Examples

Drop dead provisions have been drafted in several ways. The purpose of the scenarios and examples presented here is to alert drafters to the several ways in which a drop dead provision may be drafted, why some of them are incorrect, and how to protect later amendments.

Scenario 1: Act 1, enacts a new section 000-00 in 2023. In 2027, Act 1 is repealed.

Example 1: This Act shall take effect upon its approval and shall be repealed on June 30, 2027.

Assuming no subsequent intervening amendments are made, the drop dead provision in Example 1 is correct and will cause no problems because *everything* that was enacted drops dead.

Scenario 2: Act 1 amends an existing section 000-00 in 2023. In 2027, Act 1 is repealed. There is no reenactment provision (effective date language is the same as Example 1). Act 1 amended the section to read as follows:

§000-00 Title. Section 000-00 only contained one paragraph before amendments made by Act 1.
Act 1 added this paragraph, which will be repealed in 2027.

While the intent may be to return section 000-00 to pre-Act 1 language, a cloud is placed on the rest of section 000-00. The problem is that all of section 000-00 was set forth in Act 1. Is all of section 000-00 repealed when Act 1 is repealed or only the part added by Act 1? The probable answer is that, absent indications of legislative intent, a court will find only the language added by Act 1 is repealed. The drafter, however, should not use this type of drop dead provision since it promotes ambiguity, but instead should reenact section 000-00 to eliminate any doubts. See the repeal and reenactment language provided at the end of scenario 3.

Scenario 3: Act 1 amends section 000-00 in 2023. On June 30, 2027, Act 1 is repealed. There is no reenactment provision (effective date language is the same as Example 1). Act 1 does the following:

§000-00 Title. Section 000-00 contained [~~one~~] a single paragraph before amendments made by Act 1[-], which are further set forth below.

Act 1 added this paragraph to section 000-00 and made amendments to the first paragraph.

This example clearly highlights the problem of not specifically reenacting statutory provisions amended by the measure. Section 1-8, HRS, provides that unless clearly expressed, the repeal of any law does not revive any other law that has been repealed. Thus, upon repeal of Act 1 in 2027, the bracketed provisions in the first paragraph of section 000-00 are not reenacted. This is what the example above would look like on July 1, 2027, without the bracketed and underscored language:

§000-00 Title. Section 000-00 contained paragraph before amendment made by Act 1

As one can see, the section no longer makes sense and also contains no punctuation (a period) at the end of the sentence.

The following repeal and reenactment effective date language would preserve the underlying statutory language upon the repeal of Act 1 and remedy the problems identified in scenarios 2 and 3:

SECTION _____. This Act shall take effect upon its approval and shall be repealed on June 30, 2027; provided that section 000-00, Hawaii Revised Statutes, shall be reenacted in the form in which it read prior to the effective date of this Act.

Scenario 4: Act 1 amends section 000-00 on July 1, 2023. Act 1 is repealed on June 30, 2027. There is no reenactment provision. On July 1, 2024, Act 2 further amends section 000-00 and also does not contain a reenactment provision or a provision that would preserve its amendments after Act 1 is repealed. Act 2's amendments are set forth in italics for the purpose of this example. Section 000-00 with the amendments of Acts 1 and 2 set forth in Ramseyer format reads as follows:

§000-00 Title. Section 000-00 contained [~~one~~] a single paragraph before amendments made by Act 1[-], which added to this paragraph[-] as did Act 2.

Act 2 added this paragraph to section 000-00.

Act 1 added this paragraph to section 000-00[-] and Act 2 added this language to that paragraph.

When Act 1 is repealed in 2027 with no reenactment provisions and Act 2 has no provision to preserve the amendments made therein, it is unclear how section 000-00 is intended to

read in 2027. Therefore, to avoid this situation, the drafter must always remember to include language in the effective date that will reenact section 000-00 in the form in which it read on a specific date. For example, if the intent is for section 000-00 to read as it did before amended by either Act 1 or Act 2, the following repeal and reenactment language may be used:

SECTION _____. This Act shall take effect on July 1, 2023, and shall be repealed on June 30, 2027; provided that section 000-00, Hawaii Revised Statutes, shall be reenacted in the form in which it read prior to the effective date of this Act.

Scenario 5: Act 1 amends section 000-00 in 2023. Act 1 is repealed in 2027 and section 000-00 is reenacted in the form in which it read before Act 1. Act 2 amends section 000-00 in 2024. Act 2's amendments are set forth in italics for the purpose of this example. Section 000-00 with the amendments of Acts 1 and 2 set forth in Ramseyer format reads as follows:

§000-00 Title. Section 000-00 contained [~~one~~] a single paragraph before amendments made by Act 1 [~~and~~] and Act 2.

Act 2 added this paragraph to section 000-00 and made one amendment to paragraph one.

Act 1 added this paragraph to section 000-00 and made one amendment in paragraph one.

Upon the reenactment of section 000-00 in 2027, both the amendments made in Acts 1 and 2 are repealed. However, it is unclear if this was the intent of the Legislature regarding Act 2. The Legislature could have intended the amendments made by Act 2 to be repealed in 2027. On the other hand, the Legislature could have intended to preserve the amendments made by Act 2, but not Act 1. If the latter is correct, it is up to the drafter to protect Act 2 amendments from repeal by making this intent clear in the effective date of Act 2. For example,

SECTION _____. This Act shall take effect upon its approval; provided that the amendments made to section 000-00, Hawaii Revised Statutes, by section # of this Act shall not be repealed when that section is reenacted on June 30, 2027, pursuant to section # of Act 1, Session Laws of Hawaii 2023.

If the provisions of Act 2 are protected using the preceding language, section 000-00 will read as follows after June 30, 2027:

§000-00 Title. Section 000-00 contained one paragraph before the amendments made by Act 1 and Act 2. Act 2 added this paragraph to section 000-00 and made one amendment to paragraph one.

2. Examples of Repeal and Reenactment (Drop Dead) Effective Dates and How to Use Them

Here is the simplest form of a repeal and reenactment effective date in which the amendments made by the bill to a section in the Hawaii Revised Statutes take effect on July 1, 2023, is repealed on June 30, 2025, and the underlying statutory language is restored in the form in which it existed on the day prior to the bill taking effect:

SECTION X. This Act shall take effect on July 1, 2023; provided that on July 1, 2025, this Act shall be repealed and section 000-00, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act.

Here is an effective date that preserves the subsequent, intervening, amendments made to section 000-1, HRS, even though another, prior law (Act YYY, Session Laws of Hawaii 2022) contains a repeal and reenactment provision relating to the same section of law (section 000-1, HRS):

SECTION X. This Act shall take effect on July 1, 2023; provided that the amendments made to section 000-1, Hawaii Revised Statutes, by section 2 of this Act shall not be repealed when that section is reenacted on June 30, 2024, pursuant to section 6 of Act YYY, Session Laws of Hawaii 2022.

Here is an effective date in which different parts of a bill take effect on different dates and the repeal and reenactment of certain provisions occur on different dates:

SECTION X. This Act shall take effect upon its approval; provided that:

- (1) Part I shall take effect on June 1, 2023;
- (2) Part II shall take effect on June 29, 2023;
- (3) Part III shall take effect on July 1, 2023, and shall be repealed on June 30, 2029; provided that sections 000-1, 000-2, 000-3, and 000-4, Hawaii Revised Statutes, shall be reenacted in the form in which they read on June 30, 2023; and
- (4) Part IV shall take effect on July 1, 2024, and shall be repealed on June 30, 2029; provided that section 000-5, Hawaii Revised Statutes, shall be reenacted in the form in which it read on June 30, 2024.

Here is a more complicated effective date in which the bill amends section 000-1, HRS, which has a preexisting repeal and reenactment provision that instructed the Revisor of Statutes to repeal and reenact a section of the Hawaii Revised Statutes on July 1, 2025, pursuant to section Y of a previously enacted session law (Act ZZZ). In the example below, the effective date of the bill, contained in section X, now directs the Revisor of Statutes to

retain, until June 30, 2026, the amendments made by the bill to section 000-1, regardless of the repeal and reenactment instructions contained in section Y of Act ZZZ, Session Laws of Hawaii 2022. Then, on July 1, 2026, the temporary amendment made to section 000-1, HRS, will be repealed, and the language of section 000-1, HRS, will revert to the language that existed on the day prior to the effective date of Act ZZZ back in 2022.

SECTION X. This Act shall take effect on July 1, 2023; provided that the amendments made to section 000-1, Hawaii Revised Statutes, by this Act shall not be repealed when section 000-1, Hawaii Revised Statutes, is reenacted on July 1, 2025, pursuant to section Y of Act ZZZ, Session Laws of Hawaii 2022; provided further that this Act shall be repealed on June 30, 2026; and provided further that, on July 1, 2026, section 000-1, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of Act ZZZ, Session Laws of Hawaii 2022.

3. Repeal and Reenactment (Drop Dead) Provisions that Require the Amendment of Previously Enacted Session Laws

There are some instances, particularly when there have been multiple, subsequent, intervening amendments to a temporary amendment, in which merely preserving the amendments from repeal upon the reenactment of a provision is insufficient.

Scenario 6: Act 1 amends section 000-00 in 2023. Act 1 is repealed in 2027, and section 000-00 is reenacted in the form in which it read before Act 1. Act 2 amends section 000-00 in 2024, but Act 2 contains no reenactment provision. Act 2's amendments are set forth in italics. Section 000-00 with the amendments of Acts 1 and 2 set forth in Ramseyer format reads as follows:

SECTION 1. Section 000-00, Hawaii Revised Statutes, is amended to read as follows:
"§000-00 Title. Section 000-00 contained ~~[one]~~ a single paragraph before ~~[amendments]~~ changes made by ~~[Act]~~ Acts 1~~[-]~~ and 2.
Act 2 made changes to section 000-00 as it read before Act 1 and also made changes to Act 1 language.
Act 1 added this paragraph to section 000-00~~[-]~~ and Act 2 added more words to this paragraph which cannot stand alone once the provisions of Act 1 are repealed in 2027."

While, to date, this problem has not become common, this scenario is a simple representation of how difficult things can become without clear drafting. If the intent is to preserve the amendments made by Act 2, the drafter cannot protect these provisions merely by providing for their preservation after the repeal and reenactment because the provisions of Act 2 will not stand by themselves when Act 1 is repealed and section 000-00 is reenacted. To preserve the provisions of Act 2, the drafter should amend Act 1 to: (1)

repeal the provisions of Act 1; and (2) set out the actual language of section 000-00 as it will read after the repeal of Act 1, but with the provisions of Act 2.

Act 2 would contain the above section 1 and would also make the following amendments to Act 1:

SECTION 2. Act 1, Session Laws of Hawaii 2023, is amended by adding a new section to read as follows:

"SECTION 1A. Section 000-00, Hawaii Revised Statutes, is amended to read as follows:

"**§000-00 Title.** Section 000-00 contained one paragraph before changes made by Act 2. Act 2 made changes to section 000-00 as it read before Act 1 and also made changes to Act 1 language. Act 2 added the words in this paragraph which can stand alone in 2027."

SECTION 3. Act 1, Session Laws of Hawaii 2023, is amended by amending section # to read as follows:

"SECTION #. This Act shall take effect upon its approval; provided that section 1 of this Act is repealed on June 30, 2027, [and section 000-00, Hawaii Revised Statutes, is reenacted in the form in which it read on the day before the approval of this Act.] and section 1A shall take effect on July 1, 2027."

Scenario 7: Act 1 amends section 000-00 in 2023. Act 1 is to be repealed in 2027, and section 000-00 is to be reenacted in the form in which it read before Act 1. Act 2 amends section 000-00 in 2024. Act 2 is also to be repealed in 2027 and section 000-00 is to be reenacted in the form in which it read before Act 1. In 2025, the Legislature enacts Act 3, again amending section 000-00. Act 2's amendments are set forth in italics. Act 3's amendments are set forth in boldface (other than the section number and title to section 000-00, which are not amended by any act). Section 000-00 with the amendments of Acts 1, 2, and 3 set forth in Ramseyer format reads as follows:

SECTION 1. Section 000-00, Hawaii Revised Statutes, is amended to read as follows:

"**§000-00 Title.** Section 000-00 contained [~~one~~] a single paragraph before [~~amendments~~] changes made by [~~Act~~] Acts 1 [~~and~~], 2[~~-~~], and 3.

*Act 2 made changes to section 000-00 as it read before Act 2, **Act 3 made further changes to Act 2, and also made changes to Act 1 language. Act 3 made housekeeping amendments.***

*Act 1 added this paragraph to section 000-00 [~~-and~~], Act 2 added more words to this paragraph, **Act 3 made further changes, and this paragraph [which] cannot stand alone once the provisions of Act 1 and Act 2 are repealed in 2027.***

This scenario is more complex than Scenario 6 and again is not yet common. The legislative drafter cannot protect the provisions of Act 3, if that is the intent, merely by preserving the amendments from repeal and reenactment. Housekeeping amendments are necessary to the language in Act 3 to keep the provision accurate and grammatically correct.

Thus, in order to preserve the provisions of section 000-00 as amended by Act 3, the drafter must amend Act 1 and Act 2 by deleting the repeal and reenactment language in Acts 1 and 2 and then set out section 000-00 as amended by Act 3 as it will appear after June 30, 2027.

Act 3 will contain the following sections (in addition to the first amendment discussed and set forth above as section 1 of the Act) reading as follows:

SECTION 2. Section 000-00, Hawaii Revised Statutes, is amended to read as follows:

"§000-00 Title. Section 000-00 contained one paragraph before amendments made by Act 3.

Act 3 made changes to Act 2 which may be kept. Act 3 also made housekeeping amendments to section 000-00.

Act 3 made further changes to section 000-00 and this paragraph, which can stand alone once the provisions of Act 1 and Act 2 are repealed in 2027."

SECTION 3. Act 1, Session Laws of Hawaii 2023, is amended by amending section 3 to read as follows:

~~"SECTION 3. This Act shall take effect upon its approval[; provided that section 1 of this Act shall be repealed on June 30, 2027, and section 000-00, Hawaii Revised Statutes, is reenacted in the form in which it read on the day before the approval of this Act]."~~

SECTION 4. Act 2, Session Laws of Hawaii 2024, is amended by amending section 3 to read as follows:

~~"SECTION 3. This Act shall take effect upon its approval[; provided that section 1 of this Act shall be repealed on June 30, 2027, and section 000-00, Hawaii Revised Statutes, is reenacted in the form in which it read on the day before the approval of Act 1, Session Laws of Hawaii 2023]."~~

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval; provided that section 2 of this Act shall take effect on July 1, 2027.

The foregoing discussion gives a flavor of the possible issues that must be addressed by the drafter in this area. If questions arise, contact the Revisor of Statutes for guidance.

Part IV. Hawaiian Homes Commission Act

Under article XII, section 3, of the state constitution, certain sections of the Hawaiian Homes Commission Act (HHCA) may not be amended without the consent of the United States. For that reason, in amending the HHCA, the Legislature has sometimes stated that the amendments become effective upon consent of Congress or, that if the consent of Congress is needed, it should be obtained.

SECTION _____. This Act shall take effect upon its approval by the governor of the State of Hawaii with the consent of the United States Congress.

Because of the uncertain status of whether Congress may consent to amendments and when Congress may consent, the Hawaii Revised Statutes may contain two versions of sections of the HHCA.

In cases where a drafter is required to amend an HHCA section that:

1. Requires congressional consent;
2. Has two published versions within the HHCA:
 - a. One that has never been amended or contains an amendment that has been congressionally approved; and
 - b. One that contains an amendment that has yet to be congressionally approved; and
3. The amendment being requested to be drafted is only to language that already exists in the version of the HHCA section that has never been amended or contains an amendment that has been congressionally approved,

then the drafter should *set forth both versions of the HHCA section* in the bill and amend both versions to accomplish the requestor's intent.

In cases where a drafter is required to amend an HHCA section that:

1. Requires congressional consent;
2. Has two published versions within the HHCA:
 - a. One that has never been amended or contains an amendment that has been congressionally approved; and
 - b. One that contains an amendment that has yet to be congressionally approved; and

3. The amendment being requested to be drafted is only to language in the HHCA section that has been amended and awaiting congressional approval,

then the drafter *need only set forth the version of the HHCA section in the bill that is awaiting congressional approval* and amend that version to accomplish the requestor's intent.

Example 4-1

CROSS-REFERENCING MULTIPLE SECTIONS ADDED TO A
CHAPTER

THE SENATE
TWENTY-NINTH LEGISLATURE, 2018
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO INNOVATION BUSINESS.

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

1 SECTION 1. Chapter 206M, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately designated
3 and to read as follows:

4 "§206M-A Research and development program established.

5 (a) There is established within the development corporation, the
6 research and development program, to help Hawaii-based small
7 businesses optimize research and development performed in Hawaii.

8 (b) Subject to available funds, the research and
9 development program shall:

10 (1) Apply the research and development special fund to
11 support product development, technology transfer, and
12 commercialization;

13 (2) Provide capital to support accelerated
14 commercialization activities for qualified Hawaii-
15 based small businesses;

- 1 (3) Provide capital to sustain high-potential
2 infrastructure development to assist qualified Hawaii-
3 based small businesses towards commercial success;
4 (4) Promote efforts that reverse the loss of qualified
5 workers to other states by providing jobs to retain
6 existing Hawaii technology employees and enable highly
7 qualified scientists and engineers to return to
8 living-wage jobs in Hawaii;
9 (5) Promote efforts that keep technology companies in
10 Hawaii by limiting the need to seek out-of-state
11 venture capital, which dilutes local ownership and
12 increases the probability of high-potential technology
13 companies moving from Hawaii; and
14 (6) Provide grants of up to \$300,000 for critical product
15 development that enables a qualified Hawaii-based
16 small business to achieve significant product
17 development and technical milestones.
18 (c) To receive funding, a Hawaii-based small business
19 shall submit to the development corporation proof of the federal
20 research and development tax credits received. Proof shall be in
21 the form of copies of the small business Internal Revenue Service
22 Form 6765 Credit for Increasing Research Activities as filed.
23 The business shall be eligible to receive a grant in an amount

1 equal to the average of the federal tax credit for the prior
2 three tax years.

3 (d) In reviewing grant applications pursuant to this
4 section, the development corporation shall analyze each
5 application to determine whether the item to be undertaken will
6 be economically viable and beneficial to the State.

7 (e) The development corporation may adopt rules pursuant
8 to chapter 91 necessary to carry out the purposes of this
9 section.

10 (f) For purposes of this section:

11 "Hawaii-based small business" means a company:

12 (1) Headquartered in the State;

13 (2) Doing business in the State for not less than five
14 years; and

15 (3) Employing fifteen or more residents with income
16 subject to taxation pursuant to chapter 235.

17 "Resident" shall have the same meaning as in section 235-1.

18 **§206M-B Research and development special fund;**

19 **established.** There is established in the treasury of the State
20 of Hawaii the research and development special fund to be
21 administered by the development corporation pursuant to section
22 206M-A."

23 SECTION 2. There is appropriated out of the general
24 revenues of the State of Hawaii the sum of \$1,000,000 or so much

1 thereof as may be necessary for fiscal year 2018-2019 to be
2 deposited into the research and development special fund.

3 SECTION 3. There is appropriated out of the research and
4 development special fund the sum of \$1,000,000 or so much thereof
5 as may be necessary for fiscal year 2018-2019 for the purposes
6 set out in section 206M-A, Hawaii Revised Statutes.

7 The sum appropriated shall be expended by the Hawaii
8 technology development corporation for the purposes of this Act.

9 SECTION 4. In codifying the new sections added by
10 section 1 of this Act, the revisor of statutes shall substitute
11 appropriate section numbers for the letters used in designating
12 the new sections in this Act.

13 SECTION 5. New statutory material is underscored.

14 SECTION 6. This Act shall take effect on July 1, 2018.

15

INTRODUCED BY: _____

Example 4-2

SAMPLE MANDATED INSURANCE COVERAGE BILL

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE.

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

1 SECTION 1. The legislature finds that colorectal cancer is
2 the second leading cause of death among native Hawaiians and the
3 second leading cause of cancer death in the United States. While
4 ninety-three per cent of colorectal cancer cases are diagnosed in
5 individuals older than fifty years of age, colorectal cancer
6 screening via colonoscopy can provide detection of precancerous
7 adenomatous colonic polyps and early carcinomas with a
8 sensitivity of greater than ninety per cent resulting in either
9 less extensive surgery or only simple colonoscopic extraction in
10 many cases so that no person diagnosed with these lesions need
11 suffer and die from colon cancer.

12 The likelihood of developing prostate cancer in men is one
13 in six and prostate cancer is the third leading cause of cancer
14 death in native Hawaiians and a leading cause of cancer death
15 nationwide. The use of prostate cancer screening, including
16 digital rectal examination and the prostate specific antigen
17 blood test can result in early detection and treatment of

1 prostate cancer. Medicare insurance already covers colonoscopies
2 and annual prostate specific antigen testing for the medicare
3 population.

4 The purpose of this Act is to require health coverage for
5 prostate cancer and colorectal cancer screening in the State.

6 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
7 amended by adding a new section to article 10A to be
8 appropriately designated and to read as follows:

9 **"§431:10A- Coverage for prostate cancer and colorectal**

10 **cancer screening; notice.** (a) Any other law to the contrary
11 notwithstanding, each employer group health policy, contract,
12 plan, or agreement issued or renewed in this State after
13 December 31, 2007, shall provide, not as an employer option,
14 coverage for prostate cancer and colorectal cancer screening for
15 the policyholder and individuals covered under the policy,
16 contract, plan, or agreement.

17 (b) Every insurer shall provide notice to its
18 policyholders regarding the coverage required by this section.
19 The notice shall be in writing and prominently positioned in any
20 literature or correspondence sent to policyholders and shall be
21 transmitted to policyholders within calendar year 2008 when
22 annual information is made available to policyholders, or in any
23 other mailing to policyholders, but in no case later than
24 December 31, 2008."

1 SECTION 3. Chapter 432, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 **"§432- Coverage for prostate cancer and colorectal**
5 **cancer screening; notice.** (a) Any other law to the contrary
6 notwithstanding, each individual and group hospital or medical
7 service plan, policy, contract, or agreement issued or renewed in
8 this State after December 31, 2007, shall provide, not as an
9 employer option, coverage for prostate cancer and colorectal
10 cancer screening for the member and individuals covered under the
11 service plan, policy, contract, or agreement.

12 (b) Every mutual benefit society shall provide notice to
13 its members regarding the coverage required by this section. The
14 notice shall be in writing and prominently positioned in any
15 literature or correspondence sent to members and shall be
16 transmitted to members within calendar year 2008 when annual
17 information is made available to members, or in any other mailing
18 to members, but in no case later than December 31, 2008."

19 SECTION 4. Section 432D-23, Hawaii Revised Statutes, is
20 amended to read as follows:

21 **"§432D-23 Required provisions and benefits.**
22 Notwithstanding any provision of law to the contrary, each
23 policy, contract, plan, or agreement issued in the State after
24 January 1, 1995, by health maintenance organizations pursuant to

1 this chapter, shall include benefits provided in sections 431:10-
2 212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-116.5,
3 431:10A-116.6, 431:10A-119, 431:10A-120, [~~and~~] 431:10A-121, and
4 431:10A-_____, and chapter 431M."

5 SECTION 5. The benefit to be provided by health
6 maintenance organizations corresponding to the benefit provided
7 under section 431:10A-_____, Hawaii Revised Statutes, as contained
8 in the amendment to section 432D-23, Hawaii Revised Statutes, in
9 section 4 of this Act, shall take effect for all policies,
10 contracts, plans, or agreements issued in the State after
11 December 31, 2007.

12 SECTION 6. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect upon its approval.

15

INTRODUCED BY: _____

Chapter 5

RAMSEYER FORMAT

The Rules of the Senate and the House of Representatives require that every bill introduced or reported out of any committee that amends an existing section or subsection of the Hawaii Revised Statutes or Session Laws of Hawaii set forth the section or subsection in full; all matter to be deleted be enclosed in brackets and stricken; and any new matter added to the section or subsection be underscored. This style of formatting, which is a convention that originated in the United States House of Representatives, is often referred to as the "Ramseyer format" or the "Ramseyer rule."¹ A bill need not conform to the rules if it is: (1) a Supplemental Appropriations Bill; or (2) an amending bill the intent and effect of which can be clearly identified and understood without repeating the entire section or subsection, in which case only the paragraphs, subparagraphs, clauses, or items to be amended need be set forth as the President or the Speaker may allow. The Speaker or the President may allow additional exceptions to the rules.

Caveat. The underscored or underlined material in a Ramseyered section indicates new material, while the bracketed and stricken material indicates repealed material. However, the drafter needs to be aware that the mere inclusion of the *Ramseyer instructions paragraph* (see item 9 on page 130 of this chapter), indicating the effect of the Ramseyered material, does not have the effect of limiting amendments in a bill only to those properly Ramseyered. Rather, the addition of new words to existing statutory language without underscoring has the effect of amending the provision to include those new words. Similarly, failure to include existing statutory language results in a repeal of that language (see item 2 on page 101 of this chapter).

The following guidelines are recommended for drafting bills under the Ramseyer format.

1. Ramseyer Format, Generally

Bills that add to, amend, or repeal the Hawaii State Constitution, Hawaii Revised Statutes, Hawaiian Homes Commission Act, or previously enacted sessions laws use the Ramseyer format, which uses:

- a. Prefatory language to describe the statutory unit of organization being added, amended, or repealed (see item 2 on page 101 of this chapter);

¹ The "Ramseyer rule" is named after Congressman Christian William Ramseyer, who represented Iowa from 1915 through 1933. In 1929, the United States House of Representatives adopted a rule sponsored by Congressman Ramseyer that required committee reports to clearly show any changes a bill proposed to make to existing statutes. Specifically, the committee report needed to include a copy of the statute being amended with any language proposed for deletion to be stricken through and any new language styled in italics. The United States Senate later adopted its own version of the rule called the "Cordon rule," named after its sponsor, Oregon Senator Guy Cordon. Versions of this rule have also been adopted by other legislative bodies, including the Hawaii State Legislature.

- b. Specific conventions showing material that must be set forth as the "base," such as a section or subsection, to use for amendment or repeal;
- c. Bracketing and striking through to show language being deleted;
- d. Underscoring to show language being added; and
- e. A Ramseyer instructions paragraph, which indicates the effect of the Ramseyered material (see item 9 on page 130 of this chapter).

The following is an example of a simple bill that uses the Ramseyer format.

Example:

SECTION 1. Section 5-11.3, Hawaii Revised Statutes, is amended to read as follows:

"§5-11.3 State insect. The pulelehua (Vanessa tameamea), also known as the Kamehameha butterfly, is [~~adopted~~] established~~[r]~~ and designated as the official insect of the State."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

Prefatory language

Material being repealed is stricken and marked by brackets.

Material being added is underscored.

Ramseyer instructions paragraph

2. Prefatory Language

- a. It is critical that the prefatory language introducing the existing statutory language to be amended be carefully worded to accurately refer to the statutory section or part of a section being amended. The failure to do so may result in an unintended repeal of material.

For example, note that the prefatory language of the first, correct example below accurately refers to the amendment of subsection (h) alone. The prefatory language of the second, incorrect example, does not refer to subsection (h) and instead appears to amend *all* of section 000-00, Hawaii Revised Statutes (HRS). This would have the effect of replacing the entire section with only the language of subsection (h).

✓ **The right way:**

SECTION ____ . Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

"(h) No charter school may assess tuition[-]; provided that...."

✗ **The wrong way:**

SECTION ____ . Section 000-00, Hawaii Revised Statutes, is amended to read as follows:

"(h) No charter school may assess tuition[-]; provided that...."

Thus, a simple mistake in the wording of prefatory language can have major consequences, and these situations have occurred in the past. For example, the prefatory language of section 1 of Act 147, Session Laws of Hawaii (SLH) 1979, purported to amend section 853-1, HRS, which comprised four subsections. However, the bill as drafted included only the title and subsection (a) of section 853-1, HRS. Put another way, the prefatory language of the bill stated the entire section of the bill was being amended, but the text of the section omitted subsections (b), (c), and (d):

✗ **The wrong way:**

SECTION 1. Section 853-1, Hawaii Revised Statutes, is amended to read as follows:

"§853-1 Deferred acceptance of guilty plea, discharge and dismissal, expungement of records. (a) Upon proper motion as provided by this chapter:

- (1) When a defendant voluntarily pleads guilty, prior to commencement of trial, to a felony or misdemeanor or petty misdemeanor;
- (2) It appears to the court that the defendant is not likely again to engage in a criminal course of conduct; and
- (3) The ends of justice and the welfare of society do not require that the defendant shall presently suffer the penalty imposed by law,

the court, without entering a judgment of guilt and with the consent of the defendant and after considering the recommendations, if any, of the prosecutor, may defer further proceeding."

The Legislature probably intended for Act 147 to amend *only subsection (a)* of section 853-1, HRS. However, the prefatory language stated that *section 853-1*, and *not subsection (a) of section 853-1*, was to be amended. As a result of this

error, Act 147 had the legal effect of repealing subsections (b), (c), and (d) of section 853-1. To fix this error, the Legislature passed a separate law the following year that amended section 853-1, HRS, to re-enact the repealed subsections (see section 42 of Act 232, SLH 1980).

This problem would have been avoided if Act 147 had been drafted with appropriate prefatory language that matched the language laid out in the section (*i.e.*, the prefatory language should have stated that only subsection (a) was being amended and only subsection (a) should be included within the quotation marks):

✓ **The right way:**

SECTION 1. Section 853-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Upon proper motion as provided by this chapter:

- (1) When a defendant voluntarily pleads guilty, prior to commencement of trial, to a felony or misdemeanor or petty misdemeanor;
- (2) It appears to the court that the defendant is not likely again to engage in a criminal course of conduct; and
- (3) The ends of justice and the welfare of society do not require that the defendant shall presently suffer the penalty imposed by law,

the court, without entering a judgment of guilt and with the consent of the defendant and after considering the recommendations, if any, of the prosecutor, may defer further proceeding."

- b. If a bill proposes to amend the Hawaii Rules of Evidence, the section is referred to first, followed by the rule, in the Ramseyer prefatory language.

Example:

SECTION ____ . Section 626-1, Hawaii Revised Statutes, is amended by amending rule 101 to read as follows:

"Rule 101 Scope. These rules govern proceedings in the courts of the State [~~of Hawaii~~], to the extent and with the exceptions stated in rule 1101."

3. Sequence of Repealing and Adding Material

- a. If the bill deletes material and adds new or different material, the drafter should pattern the style of the proposed amendment after the grammatical structure and

writing style of the existing law. As a general rule, the drafter should repeal existing material first, then insert new material.

Example:

SECTION ____ . Section 171-48, Hawaii Revised Statutes, is amended to read as follows:

"**§171-48 Residence lots, requirements.** In the disposition of lots for residence purposes:

(1) No person shall purchase or lease, directly or indirectly through an agent, nominee, third person, or otherwise, any interest in more than one lot.

~~[(2) No person and no unmarried minor child, whose spouse or parent purchases or leases a lot, shall be eligible to purchase any lot.]~~

~~[(3)]~~ (2) The board of land and natural resources shall require the lessee or purchaser to construct a dwelling of such size and value ~~[and within such time]~~ as shall be prescribed by the board~~[-]~~ within three years following the date of purchase or lease. The board, on application of the purchaser or lessee, may extend the three-year period from time to time for good cause.

~~[(4)]~~ (3) The board shall establish ~~[such]~~ any additional restrictions, requirements, or conditions in accordance with the powers granted to it in section 171-6(6)."

- b. If the bill proposes to replace an existing word or figure with a new word or figure, the material to be deleted is set forth first in brackets and stricken through and the new material, which is underscored, is set forth after the deleted material.

Example:

SECTION ____ . Section 207-6, Hawaii Revised Statutes, is amended to read as follows:

"**§207-6 Bond authorization.** The director of finance ~~[may]~~, with the approval of the governor, may issue from time to time general obligation bonds pursuant to chapter 39, part I not exceeding ~~[\$500,000]~~ \$15,000,000 for the granting of loans pursuant to the purposes of this part."

If a portion of a word is being changed, such as changing the word's capitalization, spelling, or tense, the entire word is replaced by first enclosing it in brackets and

striking through the word, then inserting the word in the correct form, underscored. Do not Ramseyer individual letters within words.

✓ **The right way:**

Just because a word is [~~misspelled~~] misspelled or you wish to change a singular word into [a] plural [~~word~~] words, you should not be lazy.

✗ **The wrong way:**

Just because a word is misspelled or you wish to change a singular word into [a] plural words, you should not be lazy.

4. Punctuation

Similarly, an amendment that changes punctuation in existing statutes is indicated by appropriate bracketing/strikethrough and underscoring. Always bracket out and strikethrough punctuation before inserting new material. Do *not* insert new material *before* the punctuation.

Examples:

a. ✓ **The right way:**

Always bracket out punctuation before inserting new material[~~;~~]; do not insert new material before the existing punctuation.

✗ **The wrong way:**

Always bracket out punctuation before inserting new material; do not insert new material before existing punctuation.

b. ✓ **The right way:**

This one, that[~~;~~] one, and the other thing.


✗ **The wrong way:**

This one, that one, and the other thing.

c.  **The right way:**

SECTION _____. Section 580-52, Hawaii Revised Statutes, is amended to read as follows:

"**§580-52 Marriage after divorce.** Whenever a marriage is dissolved~~[,]~~ as provided by this chapter, either party to the divorce may marry again~~[,]~~ at any time."

 **The wrong way:**

SECTION _____. Section 580-52, Hawaii Revised Statutes, is amended to read as follows:


"**§580-52 Marriage after divorce.** Whenever a marriage is dissolved as provided by this chapter, either party to the divorce may marry again at any time."

Likewise, do not insert punctuation before brackets.

 **The right way:**

SECTION _____. Section 000-00, Hawaii Revised Statutes, is amended to read as follows:

"**§000-00 Revenues.** Revenues collected pursuant to this chapter shall be deposited into the historic district special fund~~[; provided that all revenues in excess of \$2,000,000 in each fiscal year shall be deposited into the general fund].~~"

 **The wrong way:**

SECTION _____. Section 000-00, Hawaii Revised Statutes, is amended to read as follows:

"**§000-00 Revenues.** Revenues collected pursuant to this chapter shall be deposited into the historic district special fund~~[; provided that all revenues in excess of \$2,000,000 in each fiscal year shall be deposited into the general fund.]~~"

5. Amendments to Existing Material

a. **Generally**

The full text of an amended section or subsection must be set out at length. No matter how small the proposed amendment and no matter how lengthy the amended part of the section or subsection in which the amendment is to appear, the whole section or subsection must be set forth in its entirety. If the amendment involves a

change only in a paragraph or in a smaller division of a section than a subsection, the entire section or subsection, as the case may be, must be set forth. See chapter 3, item 3(e), on page 39 of this manual on how to determine whether a section has been divided into subsections.

Exceptions:

- (1) If a section consists only of definitions, then only the definition being *amended* needs to be set forth in its entirety, applying the Ramseyer format.
- (2) If the title to a section is being amended and there is no amendment to the section itself, then only the title needs to be set forth.

b. Prefatory Language

It cannot be emphasized enough that the prefatory language must accurately reflect the intended amendment. The prefatory language indicates the unit of organization (e.g., chapter, part, section, subsection, definition, section title) to be amended. See item 2 on page 101 of this chapter.

c. Amending (All Sections in) an Entire Chapter

SECTION _____. Chapter 000, Hawaii Revised Statutes, is amended to read as follows:

**"CHAPTER 000
MISCELLANEOUS RIGHTS**

000-1 Purpose. The purpose of this chapter is to provide a [~~centralized~~] statewide information service.

000-2 Definitions. As used in this chapter, unless the context other requires:

"Department" means...."

d. Amending (All Sections in) an Entire Part

SECTION _____. Chapter 000, part II, Hawaii Revised Statutes, is amended to read as follows:

"PART II. GRANT PROGRAM

000-21 Definition. As used in this part, "department" means the department of [~~health-~~] human services.

000-22 Eligibility. [~~In order to~~] To qualify for a grant under this part, an applicant shall...."

e. **Amending a Section**

SECTION _____. Section 000-23, Hawaii Revised Statutes, is amended to read as follows:

"§000-23 Civil penalties. (a) Any person who violates this chapter shall be fined not more than [~~\$500~~] \$1,000 for each violation.

(b) Each day of each violation shall constitute a separate [violations.] violation."

Additional examples:

SECTION _____. Section 207-2, Hawaii Revised Statutes, is amended to read as follows:

"§207-2 Qualifications for loans. To qualify for a loan under this part an applicant [~~must+~~] shall:

- (1) Be of legal age and have at least one person who will occupy the premises with [~~him~~] the applicant and who is related to [~~him~~] the applicant by blood or marriage and solely dependent upon [~~him~~] the applicant for support. [~~A husband and wife,~~] Spouses who are both employed[~~]~~ shall jointly qualify for a loan;
- (2) Be a resident of the State for not less than one year immediately preceding the application for the loan;
- (3) Have a gross annual income not in excess of [~~\$7,000~~] \$15,000 including the gross income of [~~his~~] the applicant's spouse; and
- (4) Have such other qualifications as may be established by the director of finance."

or

SECTION _____. Section 291-33, Hawaii Revised Statutes, is amended to read as follows:

"§291-33 Projections on face of wheels prohibited. (a) There shall not be operated or moved upon any public road, street, or highway within the State, any vehicle, motor vehicle, or other power vehicle the face of the wheels of which are fitted or equipped with flanges, ribs, clamps, cleats, lugs, chains, spikes or other projections, other than rubber blocks, destructive to the road surfaces. This provision applies to all rings or flanges upon guiding or steering wheels of such vehicles[~~]~~ but [~~it~~] shall not be [~~so~~] construed [~~as~~] to prevent [~~the~~] the use of [~~ordinary~~]:

- (1) Ordinary detachable tire or skid chains[~~]~~;
or

- (2) [~~the use of studded~~] Studded snow tires on either the Mauna Kea access road above Hale Pohaku or on any other road within the Mauna Kea Science Reserve leased to the University of Hawaii.

(b) This section shall not apply to traction engines, tractors, or other vehicles of the tracklaying type when the portions of the movable tracks in contact with the roadway surface present plane surfaces of sufficient area to prevent damage thereto."

Note: The addition of subsection designations, when appropriate, will allow subsequent amendments to limited portions of this section rather than necessitating setting out the entire section.

f. **Amending a Single Subsection**

The examples below illustrate how to amend a *single* subsection within a single section. It is also possible to amend multiple subsections within a single section. See letter (g) on page 112 of this chapter.

(1) **Generally.**

SECTION _____. Section 000-22, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any person who violates this chapter shall be fined not more than [~~\$500~~] \$1,000 for each violation."

Note: See chapter 3, item 3(e), on page 39 of this manual for determining when a section has subsections.

Note: Remember--the prefatory language must be accurate. Inaccuracy could result in an unintentional repeal.

(2) **Additional examples.**

Example: Hawaii Revised Statutes, generally

SECTION _____. Section 163-18, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) The board may[~~, whenever it believes the public interest will be best served~~] serve suitable notices or warnings, in writing, rather than resorting to prosecution for minor [~~violations.~~] violations."

Note: The addition or deletion of entire subsections requires that the drafter set forth the entire section. See examples in items 6(h) and 7(h) on pages 119 and 124, respectively, of this chapter.

Example: Hawaii Rules of Evidence

SECTION _____. Section 626-1, Hawaii Revised Statutes, is amended by amending rule 104, subsection (d), to read as follows:

"(d) Testimony by accused. The accused does not, by testifying upon a preliminary matter, subject [~~himself~~] oneself to cross-examination as to other issues in the [~~case.~~] proceeding."

Example: Hawaii Penal Code

SECTION _____. Section 708-813, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

"(3) Criminal trespass in the first degree is a [~~misdemeanor.~~] class C felony."

Note: The structural unit designations are different for the Penal Code.

Example: Multistate or Interstate Compacts (for Ramseyer purposes, treat each Article as a subsection)

SECTION _____. Section 255-1, Hawaii Revised Statutes, is amended by amending Article I to read as follows:

"Article I. Purposes.

The purposes of this compact are to:

1. Facilitate proper determination of [~~State~~] state and [~~local~~] county tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.
2. Promote uniformity or compatibility in significant components of tax systems.
3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
4. Avoid duplicative taxation."

(3) **When to amend subsections instead of sections; avoiding common mistakes.**

If a section has several subsections but only one subsection is being amended, set forth only the subsection being amended with the appropriate

prefatory language. Doing so will save time and resources and help prevent unintended changes to other parts of the law.

✓ **The right way:**

SECTION _____. Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A person who violates any provision of this chapter or any rule of the authority shall be guilty of a petty misdemeanor."

✗ **The wrong way:**

SECTION _____. Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"§000-00 **Enforcement.** (a) Any law enforcement officer may enforce the provisions of this chapter or any rule adopted by the authority pursuant to this chapter.

(b) A person who violates any provision of this chapter or any rule of the authority shall be guilty of a petty misdemeanor.

(c) The authority may adopt rules pursuant to chapter 91 to implement this section."

Additionally, the title of the section should not be set out when only amending subsection (a).

✓ **The right way:**

SECTION _____. Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any law enforcement officer may enforce [~~the provisions of~~] this chapter or any rule adopted by the authority pursuant to this chapter."

✗ **The wrong way:**

SECTION _____. Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"§000-00 **Enforcement.** (a) Any law enforcement officer may enforce [~~the provisions of~~] this chapter or any rule adopted by the authority pursuant to this chapter."

g. **Amending Multiple Subsections**

Amendments to *contiguous* subsections within the same section (e.g., subsections (a) and (b), or (d) and (e)) may be made together in the same section of the bill. The prefatory language should refer to both subsections (e.g., "subsections (a) and (b)").

Example:

SECTION ____ . Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (f) and (g) to read as follows:

"(f) The director of taxation shall prepare and prescribe the appropriate form or forms to be used herein, may require proof of the claim for tax credits, and [~~shall~~] may adopt rules pursuant to chapter 91.

(g) This section shall apply to taxable years beginning after December 31, 2017[~~-~~], but shall not apply to taxable years beginning after December 31, 2024."

Amendments to subsections that are *not* contiguous (e.g., subsections (a) and (c)) must be made in separate sections of the bill, or they may be amended in the same bill section if the section is structured to recognize that the sections are not contiguous (as in the second example).

✓ **The right way:**

SECTION 1. Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every insurer shall conduct [~~its~~] business in [~~its~~] the insurer's own legal name."

SECTION 2. Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) An insurer shall apply to the department [~~of commerce and consumer affairs~~] and the commissioner for approval of the use or change of a trade name pursuant to section 431:2-217."

or

SECTION 1. Section 000-00, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Every insurer shall conduct [~~its~~] business in [~~its~~] the insurer's own legal name."

2. By amending subsection (c) to read:

"(c) An insurer shall apply to the department [~~of commerce and consumer affairs~~] and the commissioner for approval of the use or change of a trade name pursuant to section 000-00."

X The wrong way:

SECTION 1. Section 000-00, Hawaii Revised Statutes, is amended by amending subsections (a) and (c) to read as follows:

"(a) Every insurer shall conduct [~~its~~] business in [~~its~~] the insurer's own legal name.

(c) An insurer shall apply to the department [~~of commerce and consumer affairs~~] and the commissioner for approval of the use or change of a trade name pursuant to section 000-00."

Note: The "wrong way" illustrated here would result in the repeal of subsection (b).

h. Amending a Paragraph or Unit of Organization Lower Than a Subsection

The subsection is the lowest unit of organization that should be set out for amendment--no matter how minimal the change. Thus, if the section *is* divided into subsections, follow the examples in letter (f) on page 109 of this chapter, as applicable. If the section *is not* divided into subsections, follow the second or third example in letter (e) on page 108 of this chapter.

To determine whether a section is divided into subsections, see chapter 3, item 3(e), on page 39 of this manual.

✓ The right way:

SECTION ____ . Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The following may be deposited into the special fund:

- (1) Appropriations by the legislature [~~into the fund~~]; and
- (2) Fees collected pursuant to section 000-05."

X The wrong way:

SECTION ____ . Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (b), paragraph (1) to read as follows:

"(1) Appropriations by the legislature [~~into the fund~~]; and"

i. Amending a Definition in a Section Only Containing Definitions

SECTION ____ . Section 000-1, Hawaii Revised Statutes, is amended by amending the definition of "code" to read as follows:

"Code" means a county building code."

Additional example:

SECTION ____ . Section 361-1, Hawaii Revised Statutes, is amended by amending the definition of "developer" to read as follows:

"Developer" means a developer of moderate-income housing under section 202, 207, 213, 221(d)(3), [~~221(d)(5), or~~] 221(d)(4), 231, or 236 of the National Housing Act or a public agency, limited dividend corporation, or a private nonprofit corporation as defined in section 221(d)(3) [~~which~~] that conforms to the standards of those sections but [~~which~~] that is not a mortgagor under those sections or any other private mortgagor under the National Housing Act for low or moderate-income family housing, regulated or supervised under federal or state laws or by political subdivisions of the State, or agencies thereof, as to rents, charges, capital structure, rate of return, and methods of operation, from the time of issuance of the building permit for the project."

j. Amending Multiple Definitions Within the Same Section

SECTION ____ . Section 000-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "adequate supply" to read:

"Adequate supply" means...."

2. By amending the definition of "medical use" to read:

"Medical use" means...."

Additional example:

SECTION ____ . Section 349-16, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "homemaker services" to read:

"Homemaker [~~services~~]" means services that provide assistance with preparing meals, shopping for personal items, managing money, using the telephone, or performing light housework."

2. By amending the definition of "qualified caregiver" to read:

"Qualified caregiver" means an individual who [~~meets the following requirements~~]:

- (1) Provides care for a care recipient; and
- (2) Is employed at least thirty hours per week by one or more employers[-] or has reduced hours during a declared state of emergency."

k. Amending Chapter Titles

SECTION ____ . Chapter 000, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**"CHAPTER 000
FAMILY LEAVE AND TEMPORARY DISABILITY INSURANCE"**

l. Amending Part or Subpart Titles

SECTION ____ . Chapter 000, Hawaii Revised Statutes, is amended by amending the title of part IV to read as follows:

"PART IV. PROHIBITED CONDUCT, PENALTIES"

or

SECTION ____ . Chapter 000, Hawaii Revised Statutes, is amended by amending the title of subpart B of part V to read as follows:

"B. University Projects [~~and Purposes~~]"

m. Amending Section Titles

SECTION ____ . Section 000-1, Hawaii Revised Statutes, is amended by amending its title to read as follows:

"§000-1 Lease restrictions[-], generally."

6. New Material

a. Generally

While the general rule is to underscore new language, when the bill is proposing an entire new chapter, new part, or new subpart, the new language need not be underscored.

b. Prefatory Language

The prefatory language indicates what is being done. Except for unusual circumstances, the numbering of new sections, parts, or chapters should be left for the Revisor of Statutes to designate, as in the following examples.

c. Adding a New Chapter

SECTION _____. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER
INSTALLMENT LOANS
PART I. GENERAL PROVISIONS
§ -1 Definitions.** As used in this chapter,
unless the context otherwise requires:
"Annual percentage rate" means....
**§ -2 Installment loans; requirements;
payments.** (a) Each installment loan transaction and
renewal shall meet the following requirements....
**PART II. LICENSING
§ -11 License required.** (a) No person shall
act as an installment lender in this State...."

Note: When setting out the text of a new chapter, sections should be numbered sequentially (-1, -2, etc.). No underscoring is needed. If a new chapter is divided into parts, the first section of each part should be a number ending with "1", such as -1, -11, -21, etc.

Additional examples: Section 2 of Act 32, SLH 2021; section 2 of Act 15, SLH 2020; and section 2 of Act 32, SLH 2019.

d. Adding a New Part

SECTION _____. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . LEAHI HOSPITAL AND MALUHIA
§321- Authority of the department of health.
(a) The department of health may:**

(1) Conduct long-term care and substance abuse treatment;

(2) Pay rent to the university of Hawaii....

§321- Consultation with the university of Hawaii required. The department of health shall regularly consult....

§321- Reduction or elimination of direct patient care services. (a) No planned substantial reduction or elimination of direct patient services at Leahi hospital or Maluhia shall be undertaken unless...."

Note: As with the creation of a new chapter, no underscoring is needed. The numbers of the new sections in the part should include only the chapter number (*i.e.*, the sections numbers are designated "§321- " instead of "§321-1"). The specific section numbers will be designated by the Revisor of Statutes when the sections are codified. In situations where the new sections cross-reference each other or are cross-referenced in other portions of the bill, accurate cross-referencing may be achieved by using letters to designate the new respective sections. See chapter 4, part I, item 24, on page 78 of this manual.

Additional examples: Section 2 of Act 125, SLH 2021; section 2 of Act 206, SLH 2021; and section 1 of Act 268, SLH 2019.

e. **Adding a New Subpart**

SECTION ____ . Chapter 304A, Hawaii Revised Statutes, is amended by adding a new subpart to part VII to be appropriately designated and to read as follows:

"**SUBPART . PACIFIC INTERNATIONAL SPACE CENTER FOR EXPLORATION SYSTEMS.**

§304A- Definitions. As used in this subpart: "Board" means the board of directors of the Pacific international space center for exploration systems.

§304A- Consultation with the university of Hawaii required. (a) There is established the Pacific international space center for exploration systems, to be placed within the University of Hawaii at Hilo for administrative purposes only...."

Note: Follow the same conventions used when adding a new part (see the note to letter (d) above). In addition, make sure that the prefatory language indicates which part of the Hawaii Revised Statutes chapter the subpart is to be added to.

Additional examples: Section 1 of Act 1, Special Session Laws of Hawaii 2021; section 2 of Act 227, SLH 2021; and section 2 of Act 39, SLH 2017.

f. **Forming a Part or Subpart Out of Existing Sections**

SECTION _____. Chapter 000, Hawaii Revised Statutes, is amended by designating sections 000-1 to 000-15.5 as part I, entitled "General Provisions".

[No need to set out text of affected sections.]

or

SECTION _____. Chapter 000, Hawaii Revised Statutes, is amended by designating sections 000-101 to 000-104 as part III, and inserting a title before section 000-101 to read as follows:

"PART III. COMMISSION OPERATIONS"

[No need to set out text of affected sections.]

or

SECTION _____. Chapter 000, Hawaii Revised Statutes, is amended by designating sections 000-21 to 000-28 as subpart A, and inserting a title before section 000-21 to read as follows:

"A. Special Funds"

[No need to set out text of affected sections.]

For additional examples, see section 3 of Act 262, SLH 2013; and section 3 of Act 166, SLH 2011.

g. **Adding a New Section**

The addition of one or more new sections to an existing chapter does not require the chapter to be set forth at length. However, the new section or sections must be set forth in their entirety and underscored.

Section added to chapter having no parts:

SECTION _____. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§237- _____ Exemption of certain shipbuilding and ship repair business. There shall be exempted from, and excluded from the measure of, the taxes imposed by this chapter all of the gross proceeds arising from ship building and ship repairs rendered to surface vessels federally owned or engaged in interstate or international trade."

If chapter 237 was divided into parts and the new section was being added to part II, the prefatory language would read:

SECTION _____. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

[Set out text of section underscored.]

Several new sections are added to chapter:

SECTION _____. Chapter 000, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

"§000-_____ Prohibitions. No applicant or program participant shall provide false information on an initial application or an application for renewal.

§000-_____ Penalties. An applicant or program participant who violates this section shall be fined not more than \$500.

§000-_____ Indemnification. Nothing in this chapter shall be construed to create a cause of action against the State, the counties, or any of their employees, agencies, officials, or volunteers except as set forth in section 000-10."

Note: The specific section numbers will be designated by the Revisor of Statutes when the sections are codified. In situations where the new sections cross-reference each other or are cross-referenced in other portions of the bill, accurate cross-referencing may be achieved by using letters to designate the new respective sections. See chapter 4, part I, item 24, on page 78 of this manual.

h. Adding a New Subsection

The addition of a new subsection to an existing section requires the section to be set forth in its entirety with the new subsection underscored.

SECTION _____. Section 103D-1004, Hawaii Revised Statutes, is amended to read as follows:

"§103D-1004 Reciprocity. (a) To ensure fair and open competition for Hawaii businesses engaged in contracting with other states, the chief procurement officer may impose a reciprocal preference against bidders from those states which apply preferences. The amount of the reciprocal preference shall be equal to the amount by which the non-resident preference exceeds any preference applied by this State.

In determining whether a bidder qualifies as a resident bidder, the definition used by the other state in applying a preference shall apply.

(b) The policy board shall adopt rules to implement this section.

(c) This section shall not apply to any transaction if the provisions of the section conflict with any federal laws."

i. **Adding a New Rule to the Rules of Evidence**

SECTION _____. Section 626-1, Hawaii Revised Statutes, is amended by adding a new rule to be appropriately designated and to read as follows:

"Rule _____ Payment of medical and similar expenses. Evidence of furnishing or offering or promising to pay medical, hospital, or similar expenses occasioned by an injury is not admissible to prove liability for the injury."

j. **Adding a New Paragraph or Lower Level of Organization**

This is treated as an *amendment* of the section or subsection, as appropriate. New language is inserted and underscored. As a practical matter, consider inserting new material at the end of the numbered paragraphs.

SECTION _____. Section 000-03, Hawaii Revised Statutes, is amended to read as follows:

"§000-03 Exemptions. The following state agencies are exempt from section 000-02:

- (1) The legislature or any of its attached agencies; [~~and~~]
- (2) The judiciary or any of its attached agencies[~~;~~]; and
- (3) The office of Hawaiian affairs."

or

SECTION _____. Section 000-04, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The reserve shall be used solely and exclusively for the following purposes:

- (1) Preservation and practice of all rights customarily and traditionally exercised by native Hawaiians for cultural, spiritual, and subsistence purposes;

- (2) Preservation and protection of its archaeological, historical, and environmental resources; ~~and~~
- (3) Rehabilitation, revegetation, habitat restoration, and preservation~~[-]~~; and
- (4) Education."

When adding a new numbered paragraph between existing numbered paragraphs, insert the new numbered item appropriately and renumber the subsequent paragraphs. Do not insert the new numbered line by leaving a paragraph number "hanging" before the new material and then try to match the paragraph number up with the remaining material. (See the examples below.)

✓ **The right way:**

SECTION 1. Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Priority for selecting vehicles shall be as follows:

- (1) Electric or plug-in hybrid electric vehicles;
- (2) Hydrogen or fuel cell vehicles;
- ~~[-2-]~~ (3) Other alternative fuel vehicles; and
- ~~[-3-]~~ (4) Hybrid electric vehicles."

✗ **The wrong way:**

SECTION 1. Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Priority for selecting vehicles shall be as follows:

- (1) Electric or plug-in hybrid electric vehicles;
- (2) Hydrogen or fuel cell vehicles;
- (3) Other alternative fuel vehicles; and
- ~~[-3-]~~ (4) Hybrid electric vehicles."

k. **Adding a New Definition to a Definitional Section**

The addition of a new definition to a section composed only of definitions requires only the new definition to be set forth.

SECTION _____. Section 000-01, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Eyewitness" means a person who observes another person at or near the scene of an offense."

or

SECTION ____ . Section 235-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"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."

However, if a new definition's addition will involve other amendments to the section (such as the deletion of the numbering of definitions as shown in the last example to item 7(j) on page 127), the section or subsection should be set forth in its entirety. As noted in chapter 3, item 14, on page 53 of this manual, definitional sections should set forth definitions in alphabetical order and should not be numbered.

Example:

SECTION ____ . Section 153-1, Hawaii Revised Statutes, is amended to read as follows:

"§153-1 Definitions. Whenever used in this chapter, unless the context otherwise requires:

~~[(1)]~~ "Board" means the board of agriculture.

"Committee" means the advisory committee on agricultural products.

~~[(2)]~~ "Qualified agriculturalist" means a person, or association of persons, actively engaged in a farm, agricultural produce processing, or agricultural product development activity."

Note: By deleting the numbers, only the definitions to be added or deleted will have to be set forth in future amendments to a section containing only definitions. Before deleting numbers, however, check to see if there are cross-references to those numbers that also have to be amended to conform.

7. Repeal

a. Generally

While the general rule is to bracket and strikethrough deleted language, a bill to repeal an entire chapter, part, or subpart need not set forth the chapter, part, or subpart to be repealed. See items 7(c) through 7(e) below.

b. Prefatory Language

The prefatory language for a bill section that repeals a chapter, part, subpart, section, or definition must clearly indicate what is being repealed. The repeal of subsections and lower levels of organization is treated as an amendment to a section or subsection, as appropriate. Again, ensure that the prefatory language is accurate to avoid unintentional repeals of statutory material.

c. Repeal of a Chapter

SECTION _____. Chapter 000, Hawaii Revised Statutes, is repealed.

[No need to set out text.]

d. Repeal of a Part

SECTION _____. Chapter 000, part I, Hawaii Revised Statutes, is repealed.

[No need to set out text.]

e. Repeal of a Subpart

SECTION _____. Chapter 000, part II, subpart B, Hawaii Revised Statutes, is repealed.

[No need to set out text.]

f. Repeal of the Title of a Part or Subpart

SECTION _____. The title of part VII, Chapter 000, Hawaii Revised Statutes, is repealed.

~~["PART VII. DEVELOPMENT AGREEMENTS"]~~

or

SECTION _____. The title of subpart B, part V, Chapter 000, Hawaii Revised Statutes, is repealed.
["~~B. Board Powers.~~"]

Note that the quotation marks around the quoted material appear inside the brackets.

g. Repeal of a Section

A bill to delete a section must set forth the section in its entirety.

SECTION _____. Section 000-2, Hawaii Revised Statutes, is repealed.

["~~§000-2 Procurement; exemptions. Contracts for the procurement of food products necessary to carry out the purposes of this chapter shall be exempt from chapter 103D.~~"]

h. Repeal of a Subsection

A bill to delete a subsection must set forth the section in its entirety.

SECTION _____. Section 149A-16, Hawaii Revised Statutes, is amended to read as follows:

"§149A-16 Coloration of certain pesticides. (a) Pesticides known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, or barium fluosilicate shall be distinctly colored as specified by rule.

(b) The chairperson, after a hearing, may require the coloration of other pesticides that the chairperson determines to be necessary to protect the health and environment.

~~[(c) The chairperson may exempt the coloration requirements for certain uses that the chairperson determines not to have substantial adverse effect on the environment.]"~~

If the deletion of a subsection results in a section with only one subsection, be sure to delete the remaining subsection designation.

Example:

SECTION _____. Section 107-23, Hawaii Revised Statutes, is amended to read as follows:

"§107-23 Executive director and executive assistant; council budget. [~~(a)~~] The council shall appoint, exempt from chapters 76 and 89, an executive director, who shall serve at the pleasure of the council, and who shall have administrative abilities

and experience with the building industry. The council shall also appoint, exempt from chapters 76 and 89, an executive assistant, who shall have experience in statutory and administrative rulemaking processes to assist in carrying out the duties of the council under section 107-24. The council may appoint other staff who shall be subject to chapters 76 and 89.

~~[(b) The budgetary requirements for conducting meetings, training, travel, and other related responsibilities of the council, including salaries of the executive director, executive assistant, and other staff, shall be included in the budget of the department of accounting and general services.]"~~

i. **Repeal of a Paragraph or a Lower Unit of Organization**

This is treated as an *amendment* of the section or subsection, as appropriate.

SECTION ____ . Section 000-4, Hawaii Revised Statutes, is amended to read as follows:

"§000-03 General powers. The board may:

- (1) Sue and be sued
- ~~[(2) Acquire and hold title to real, personal, or mixed property or any interest therein;~~
- ~~-(3)]~~ (2) Make and execute contracts and other instruments necessary or convenient to exercise its powers;
- ~~[-(4)]~~ (3) Adopt bylaws and rules, which shall be exempt from chapter 91, for its organization and internal management."

or

SECTION ____ . Section 000-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The following shall be deposited into the special fund:

- (1) Appropriations by the legislature to the special fund;
- ~~[-(2) Gifts, donations, and grants from public agencies and private persons;~~
- ~~-(3)]~~ (2) Fees collected by the authority pursuant to section 000-9; and
- ~~[-(4)]~~ (3) Any interest earned on the balance of the special fund.

When deleting a numbered paragraph and renumbering the remaining paragraphs, bracket and strikethrough the paragraph number with the material to be deleted, and

reinsert the paragraph number when reaching the remaining material. Do not leave the paragraph number "hanging" before the deleted material, and then try to match the paragraph number up with the remaining material. (See the examples below.)

✓ **The right way:**

SECTION 1. Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (b) as follows:

"(b) The fund may be used for:
(1) Personnel and operating expenses;
[-(2)] ~~All necessary board costs and reimbursements;~~
[-(3)] (2) Preparation and dissemination of public information; and
[-(4)] (3) Preparation of annual reports."

✗ **The wrong way:**

SECTION 1. Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (b) as follows:

"(b) The fund may be used for:
(1) Personnel and operating expenses;
(2) [~~All necessary board costs and reimbursements;~~
-(3)] Preparation and dissemination of public information; and
[-(4)] (3) Preparation of annual reports."

j. **Repeal of a Definition**

A bill to delete a definition in a section comprised only of definitions requires only the definition being deleted to be set forth.

Examples:

SECTION ____ . Section 000-6, Hawaii Revised Statutes, is amended by repealing the definition of "agency".

~~["Agency" means any state agency within the executive, legislative, and judicial branches, the office of Hawaiian affairs, and any agency within the executive and legislative branches of the several counties.]~~

or

SECTION ____ . Section 235-1, Hawaii Revised Statutes, is amended by deleting the definition of "trade or business".

~~["Trade or business" includes the performance of the functions of a public office."]~~

If the deletion of the definition will require other amendments in the section (such as the deletion of the numbering of definitions), the section should be set forth in its entirety.

Example:

SECTION ____ . Section 205-31, Hawaii Revised Statutes, is amended to read as follows:

"§205-31 Definitions. As used in this part, unless the context otherwise requires:

~~[(1)]~~ "Agency" means the planning department of each county~~;~~.

~~[(2)]~~ "Shoreline" means the upper reaches of the wash of waves, other than storm and tidal waves, usually evidenced by the edge of vegetation growth, the upper line of debris left by the wash of waves~~;~~.

~~[(3)]~~ "Shoreline setback" means all of the land area between the shoreline and the shoreline setback line~~;~~.

~~[(4)] "Shoreline setback area" means all the land area sea-ward of the shoreline setback line;~~

~~[(5)]~~ "Shoreline setback line" means that line established by the ~~[State]~~ state land use commission or the county running inland from and parallel to the shoreline at a horizontal plane."

Note: By deleting the numbers and changing the semicolons to periods, this definitional section will be easier to amend in the future.

k. **Repeal of a Rule of the Hawaii Rules of Evidence**

SECTION ____ . Section 626-1, Hawaii Revised Statutes, is amended by repealing rule 802.

~~["Rule 802 Hearsay rule. Hearsay is not admissible except as provided by these rules, or by rules prescribed by the Hawaii supreme court, or by statute."]~~

l. **Repeal of an Act**

A bill to repeal an Act does not require the Act to be set forth. See chapter 6 beginning on page 132 of this manual for detailed information about amending Session Law.

SECTION _____. Act 214, Session Laws of Hawaii
20__, is repealed.

[No need to set out text.]

8. Special Cases

a. Numerous Deletions or Insertions in Existing Hawaii Revised Statutes Sections

If a bill proposes so many deletions and insertions in an existing section or subsection of the Hawaii Revised Statutes as to make reading the section difficult, the entire section or subsection may be bracketed/stricken and the new matter set out and underscored in its entirety.

b. Numerous Instances of Identical or Very Similar Amendments

As previously discussed in chapter 4, in certain limited instances where the same changes are being made to a number of sections and are the *only* changes being made in each section, the amendments can be made by listing the sections to be amended and describing the change to be made. This is easier than setting out the text of each section or subsection affected.

SECTION _____. Sections 000-0, 000-1, 000-2,
101-10, 125-35, and 247-9, Hawaii Revised Statutes,
are amended by substituting the word "_____"
wherever the word "_____" appears, as the context
requires.

See chapter 4, part I, item 23, on page 78 of this manual.

Caveat. In using this approach, each change must be capable of being made by *direct word-for-word substitution*. Any changes that do not meet this requirement may be amended in the usual manner, by setting out the text.

c. Grouping of Sections Under a Heading That is Not Formally Designated as a Part or Subpart

Some chapters of the Hawaii Revised Statutes are divided into groupings of sections under headings that resemble parts or subparts but are not formally designated as such. In the following example from chapter 231, HRS, note that the subdivision title ("Delinquent Taxes") resembles a part title but is not formally designated a part or assigned a part number (e.g., "Part I").

DELINQUENT TAXES

§231-13 Director; examination, investigation, and collection. (a) The director of taxation shall be responsible for the collection and general administration of all delinquent taxes. [....]

§231-14 Attorney. The attorney general shall assign one of the attorney general's deputies....

This method of chapter subdivision is obsolete. New chapters that require subdivision should be divided into parts and subparts, as appropriate.

Although deprecated, some chapters in the Hawaii Revised Statutes still use this method of subdivision. If you are drafting a bill that repeals one of these subdivisions, the subdivision may be treated as a part or subpart for Ramseyer purposes (*i.e.*, the subdivision may be repealed by referencing the subdivision title in the prefatory language without setting out the full text of the subdivision):

SECTION ____ . Chapter 231, Hawaii Revised Statutes, is amended by repealing the subdivision relating to delinquent taxes.

[No need to set out text.]

d. **House Drafts, Senate Drafts, and Floor Amendments**

In preparing a House or Senate Draft or Floor Amendment of a House Bill or a Senate Bill, the bracketing and underscoring must relate to *existing* statutory law, and *not* to changes being made from the prior bill draft. For example, if you are drafting a Senate Draft 2 for a bill that amends section 000-00, HRS, the bracketing and underscoring in the Senate Draft 2 must be in relation to section 000-00, HRS, as it appears in the most recent printed version of the Hawaii Revised Statutes and *not* to how that section appeared in the Senate Draft 1. Put another way, *do not* Ramseyer previously Ramseyered material.

e. **Supplemental Appropriation Bill**

While the Rules of both the Senate and House of Representatives provide that the supplemental appropriations bill, which makes amendments to the executive branch budget during the second year of a fiscal biennium, need not use the Ramseyer format, historically, the general practice of both chambers has been to use Ramseyer formatting.

f. **Other Uses of Brackets in Statutory Material**

- (1) The Revisor of Statutes uses brackets when inserting dates and other words in the statutes to alert the reader of the statute that a change has been made by the Revisor after passage of an Act. In subsequent amendments to statutes containing these brackets, the brackets must be set out and deleted using either of the following methods:

The salary of the sheriff shall be set by the [+]chief justice[+].

or

The salary of the sheriff shall be set by the [~~chief justice~~] chief justice.

Deletion of the brackets ratifies the actions of the Revisor.

- (2) In extremely rare instances, brackets may be intended as part of the underlying language. An example of this may be found in Act 162, SLH 1974. In this case, the brackets are not deleted and must remain in the statute. In such cases, appropriate changes must be made to the Ramseyer instructions paragraph in the measure to clarify the effect of bracketing. See section 2 of Act 162, SLH 1974.

9. **Statement of Effect of Bracketing/Strikethrough and Underscoring**

The penultimate section of every bill using the Ramseyer format should be one of the following instructions paragraphs, as appropriate, that instruct the reader how to interpret the use of the Ramseyer format:

SECTION _____. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

or

SECTION _____. Statutory material to be repealed is bracketed and stricken.

or

SECTION _____. New statutory material is underscored.

Note: Because bills establishing or repealing chapters or parts do not use bracketing, strikethrough, and underscoring, a Ramseyer instructions paragraph does not need to be included.

For Ramseyer language on a constitutional amendment:

SECTION _____. Constitutional material to be repealed is bracketed and stricken. New constitutional material is underscored.

In printing an Act in the Session Laws, the Revisor of Statutes includes the original underscoring, brackets, or bracketed material as the law was enacted except when a new section is added or an existing section is repealed in its entirety. See section 23G-16.5, HRS.

Chapter 6

AMENDING SESSION LAWS

Part I. Introduction

Session laws are the laws of the State published in the form enacted by the Legislature each regular session. The session laws of a particular year, for example, the Session Laws of Hawaii 2021, are all of the Acts enacted by the Legislature and not vetoed by the Governor, in the order by which they became law. Thus, these Acts are arranged solely in chronological order, not by subject. As mentioned at the beginning of chapter 3 (see page 35 of this manual), laws considered to be of a general and permanent nature are organized by general subject area and codified as the Hawaii Revised Statutes.

The fact that an Act (or any part thereof) is not codified in the Hawaii Revised Statutes does not make that Act or provision any less a "statute" or "law." Any provision in any of the Session Laws of Hawaii of any year that is not repealed or otherwise lapsed by operation of law is a validly enacted statute, regardless of whether it is codified in the Hawaii Revised Statutes. There may be any number of instances in which a drafter would seek to amend a portion of a session law that is not codified in the Hawaii Revised Statutes. The most common of these are illustrated in this chapter.

Part II. General Requirements

1. Ramseyer Requirement

Use the same Ramseyer rules set forth in chapter 5 beginning on page 100 of this manual:

- a. Using correct prefatory language to describe what is being amended;
- b. Showing deletions and additions through the use of brackets, strikethroughs, and underscoring; and
- c. Using drafting conventions such as: deleting first and then adding; and not inserting new material before existing punctuation.

2. What is the "Base" that is Being Amended?

While the material covered in chapter 5 discussed amendments made to various provisions of the Hawaii Revised Statutes, this chapter applies to material that is in the Session Laws

of Hawaii. When amending a session law, the prefatory language must state that a session law is being amended. For example:

SECTION 1. Act 86, Session Laws of Hawaii 2021, is amended by amending section 5 to read as follows:

"SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, [~~2026.~~] 2028."

The prefatory language in the above example indicates the Act number (Act 86), volume and year of the Session Laws that contains the Act being amended (Session Laws of Hawaii 2021), and the section of the Act being amended (section 5). Other levels of organization may be amended; provided that the prefatory language is accurate. For example:

SECTION 2. Act 9, Session Laws of Hawaii 2020, is amended by amending part XXII to read as follows:

"PART XXII. DEPLOYMENT OF RESERVE FUNDS
SECTION 39. [Text of section showing changes]
SECTION 40. [Text of section showing changes]"

Part III. Amending Uncodified Material

1. Amending an Uncodified Section of a Session Law

SECTION 2. Act 300, Session Laws of Hawaii 20__, is amended by amending section 6 to read as follows:

"SECTION 6. This Act shall take effect on July 1, [~~2019, and shall be repealed on June 30, 2022.~~] 2020."

2. Amending a Subsection of an Uncodified Section of a Session Law

SECTION 3. Act 150, Session Laws of Hawaii 20__, section 2, is amended by amending subsection (b) to read as follows:

"(b) The purpose of this Act is to require the department of [~~education~~] health to operate temporary polio vaccination clinics at each secondary school in the State."

3. Adding a New Section to a Session Law

SECTION 1. Act 48, Session Laws of Hawaii 20__, is amended by adding a new section to read as follows:

"SECTION 5A. The department of health shall submit a report to the legislature on the results of the demonstration project by December 15, 20__."

Although the general rule is to allow the Revisor of Statutes to designate the numbers of new sections, notice that this example designates a number for the new section (in this case, the intent is to add a new section between sections 5 and 6 of Act 48). This is because the Revisor of Statutes publishes session laws "as is," that is, exactly as enacted. Therefore, *unlike* new sections being added to the Hawaii Revised Statutes, the Revisor would not insert a section number. Thus, in this case, the drafter should designate the number of any new section being added to the session laws.

4. Deleting a Section from a Session Law

SECTION 3. Act 209, Session Laws of Hawaii 20__, is amended by amending section 8 to read as follows:

~~"SECTION 8. [There is appropriated out of the general revenues of the State of Hawaii the sum of \$25,000, or so much thereof as may be necessary for fiscal year 2020-2021, to carry out the purposes of this Act.~~

~~The sum appropriated shall be expended by the department of taxation.]~~ Repealed."

When repealing a section from session law, the drafter should avoid leaving a "gap" between the sections that remain in the session law. Thus, repeal the text of the section but not the section number and add in the sentence "Repealed." to indicate to readers that the statutory material in the section was repealed.

5. Repealing an Entire Act (Session Law)

SECTION 1. Act 214, Session Laws of Hawaii 20__, is repealed.

[No need to set out text.]

Part IV. Amending Uncodified Material that Makes Changes to the Hawaii Revised Statutes

Occasionally, drafters may find it necessary to amend session laws that amend the Hawaii Revised Statutes. While as a general rule, the Revisor will codify all additions or amendments to the Hawaii Revised Statutes enacted into law, situations may arise where it is necessary to make

amendments to a previously enacted Act, the text of which has not yet been codified in the Hawaii Revised Statutes.

To be clear, the examples in this part illustrate how to amend session laws that *have not yet been codified*. If an Act has already been codified by the Revisor, the drafter should amend the laws as codified in the Hawaii Revised Statutes rather than the underlying session law, even if the law has not yet taken effect.

1. Amending Session Law to *Add* a New Section to Hawaii Revised Statutes

SECTION 2. Act 219, Session Laws of Hawaii 20__, is amended by adding a new section to read as follows:

"SECTION 1A. Chapter 281, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§286-__ Rules. The department of transportation shall adopt rules pursuant to chapter 91 to implement this chapter."

Note: Observe the use of quotation marks in the example. In particular, a different number of quotation marks is used at the beginning and end of the material

2. Amending Session Law to *Add* a Section to a New Part (or Chapter) Added to the Hawaii Revised Statutes by Session Law Being Amended

SECTION 3. Act 320, Session Laws of Hawaii 20__, section 2, is amended by adding a new section to the new part (chapter) to be appropriately designated and to read as follows:

"§286-__ Persons exempt from license. The following persons shall be exempt from licensure under this part:

- (1) Any active duty military personnel while operating a commercial motor vehicle in the service of the United States Department of Defense; provided that the driver has a current valid license or permit from the Department of Defense to drive the commercial motor vehicle; and
- (2) Federal firefighters who drive federal fire trucks, provided that they are trained by the federal government."

In this case, the section is *not* underscored because it is being added to a new part (or chapter) and thus would not be underscored.

3. Amending Session Law to *Amend* a Section Being Added to the Hawaii Revised Statutes

SECTION 2. Act 320, Session Laws of Hawaii 20__, is amended by amending section 1 to read as follows:

"SECTION 1. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to part XI to be appropriately designated and to read as follows:

"§286- Driver improvement program. Every employer who employs a commercial motor vehicle driver as categorized in section 286- , or a category [4] (4) driver in section 286-102, shall provide for every such driver a driver improvement program. This program shall provide a system for continuous driver evaluation and annual driver safety courses approved by the director. For drivers with five years of continuous employment with one employer, this requirement shall be at least once every two years. Every job placement center through which a category (4) or commercial motor vehicle driver is employed on a casual or sporadic basis, and not as a regularly employed driver for any one employer, shall be responsible for providing the driver improvement program for all its category (4) and commercial motor vehicle drivers. For purposes of this subsection only, "job placement center" means any place where persons may register for purposes of employment, and the dispatching of those persons to various jobs as they become available. Any employer or job placement center that violates this subsection shall be fined not more than \$500.""

Note: In the earlier Act (the one being amended), this section would have been underscored. For purposes of amendment, however, *do not* "Ramseyer on Ramseyer". Instead, bracket and strikethrough the material to be repealed, and remove underscoring from under new material. This is the new "base" upon which changes are shown.

4. Amending Session Law to *Repeal* a Section Being Added to the Hawaii Revised Statutes

SECTION 21. Act 121, Session Laws of Hawaii 20__, is amended by amending section 2 to read as follows:

~~"SECTION 2. [Chapter 296, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:~~

~~**"§296- Annual report.** The department shall submit an annual report to the legislature on progress made under the program."] Repealed.~~

5. Amending Session Law to Make Additional Amendments to a Hawaii Revised Statutes Section that Has Been Amended by the Session Law

SECTION 6. Act 288, Session Laws of Hawaii 20___, is amended by amending section 2 to read as follows:

"SECTION 2. Section 534-35, Hawaii Revised Statutes, is amended to read as follows:

"§534-35 **Title.** Text of section."

See note to item 3 above. Set out text of section as amended by the prior Act, then show changes using brackets, strikethroughs, and underscoring.

6. Assume Same Facts as in Item 5, but Intent is to Only Amend a *Subsection* of a Section

SECTION 6. Act 288, Session Laws of Hawaii 20___, section 2, is amended by amending subsection (c) of section 534-35, Hawaii Revised Statutes, to read as follows:

"(c) Text of subsection."

See note to item 3 above. Set out text of subsection as amended by the prior Act, then show changes using brackets, strikethroughs, and underscoring.

7. Amending Session Law to Amend a Single Definition in a Definition Section

SECTION 4. Act 320, Session Laws of Hawaii 20___, section 1, is amended by amending the definition of "serious traffic violation" in section 286-___, Hawaii Revised Statutes, to read as follows:

"Serious traffic violation" means:

- (1) [~~Excessive speeding, as defined by the United States Secretary of Transportation by regulation;~~] Driving at a speed of fifteen miles per hour or more above the posted speed limit;
- (2) Driving a commercial motor vehicle in disregard of the safety of persons or property (reckless driving); [~~or~~]
- (3) Improper or erratic traffic lane changes;
- (4) Following a vehicle ahead too closely; or
- [~~(3)~~] (5) A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal traffic accident."

**Part V. Amending Session Law (or a Section Thereof)
that Has Been Amended by One or More Prior Act**

Drafters will sometimes find that a session law that they are amending has already been amended by one or more prior Act. In these situations, the drafter must make sure that the prefatory language reflects the legislative history of the Act being amended. This issue is frequently encountered in bills that amend previously enacted repeal (sunset) provisions.

SECTION 8. Act 123, Session Laws of Hawaii 2014, as amended by section 3 of Act 70, Session Laws of Hawaii 2015, as amended by section 4 of Act 60, Session Laws of Hawaii 2016, as amended by section 6 of Act 59, Session Laws of Hawaii 2017, as amended by section 7 of Act 173, Session Laws of Hawaii 2019, is amended by amending section 31 to read as follows:

"SECTION 31. This Act shall take effect upon its approval [~~and sections 2, 4, 5, 6, 7, 17, and 20 shall be repealed on October 1, 2021~~]."

In the earlier Act (the one being amended), the section may have included Ramseyer markup. However, do not "Ramseyer on Ramseyer." Set out text of subsection as amended by all prior Acts, then show new changes using brackets, strikethroughs, and underscoring.

While the foregoing example may appear to be fairly simple and straightforward, it must be emphasized that the drafter is responsible for piecing together the final form of an Act that may have gone through multiple amendments. In some cases, it may easier (and more readily understandable) to repeal all previous versions and then enact a new version of the law.

Chapter 7

APPROPRIATIONS

Part I. Generally

Similar to the federal government, our state government may not spend money unless the Legislature has appropriated the funds. Article VII, section 5, of the Hawaii State Constitution provides that "[n]o public money shall be expended except pursuant to appropriations made by law." In this context, an appropriation is a "legislative act authorizing the expenditure of a designated amount of public funds for a given purpose." (See Webster's II New College Dictionary, 2001.) The Attorney General has characterized an appropriation bill as one that authorizes the expenditure of public money and stipulates the amount, manner, and purpose of the various items of expenditure. (Att. Gen. Op. 72-6.)

As a practical matter, most of the appropriations authorized by the Legislature for state operating expenditures and capital expenditures are accomplished through the budgetary process.¹ Generally, the legislative drafting agencies are not called upon to actually draft budgetary documents.² Nevertheless, there are any number of requests for the drafting of appropriation language, some of which may ultimately find their way into the budget, and some of which may pass as a stand-alone bill that does nothing more than appropriate funds. See Example 7-1 on page 155, which appropriates moneys to fund statutorily authorized staff positions for a commission. Other appropriation provisions may be part of an otherwise conventional bill creating or changing substantive law. See Example 7-2 on page 156, which establishes a two-year pilot program to address agricultural theft and agricultural vandalism.

Appropriations may be made through the designation of cash from a funding source, usually the general fund but sometimes from a special or revolving fund, or through authorizing the issuance of general obligation bonds, revenue bonds, or in certain cases, special purpose revenue bonds.

¹ Briefly, in each odd-numbered year, the Governor is responsible for the submission to the Legislature of a proposed budget (the general appropriations bill) setting forth a complete plan of proposed expenditures (including operating and capital expenditures) of the executive branch, as well as various financial program and planning documents, for the ensuing fiscal biennium. After its review, consideration, and evaluation of alternatives, the Legislature may revise the executive budget and appropriate funds to implement the budget. In each even-numbered year (the second year of the fiscal biennium), the Governor may submit a supplemental appropriations bill to amend any appropriations for operating and capital expenditures in the current fiscal biennium. Likewise, the Chief Justice, in each odd-numbered year, submits a complete plan of proposed expenditures of the Judiciary for the ensuing fiscal biennium and may submit a supplemental budget in the even-numbered years. Separate budgets are also prepared and adopted that appropriate funds for expenditures of the Legislature and the Office of Hawaiian Affairs. The budgetary process is addressed in article VII of the Hawaii State Constitution and chapter 37 of the Hawaii Revised Statutes.

² The budget staff of the money committees in the House of Representatives (Finance) and Senate (Ways and Means) primarily handle the budget bills and are highly experienced with and knowledgeable about the budgetary process. Specific questions about drafting budgetary provisions may be referred to the appropriate committee staff.

More than other types of legislative documents, appropriation bills follow standardized language. As noted elsewhere in this manual, the Legislature's computer drafting program used by the various legislative drafting agencies contains templates with boilerplate language for the drafting of legislative documents. These templates provide standardized language, with some slight variations for House or Senate documents; general, special, or revolving fund appropriations; appropriations authorizing general obligation bonds; and appropriations authorizing special purpose revenue bonds.

As discussed in chapter 2, part II, item 6(b), on page 20 of this manual, the report title of a bill that appropriates funds should include the term "Appropriation" (or "Appropriations" if the bill appropriates funds in multiple fiscal years or contains multiple appropriations) as an index term.

Part II. Necessary Information

The drafter should check with the bill requester to obtain the following information concerning a request for the drafting of an appropriation measure:

1. The purpose of the appropriation (e.g., new program, additional staff positions, site acquisition, construction, equipment, etc.);
2. The recipient of the funds, including specific programs, if appropriate;
3. The type of appropriation or source of the funds (e.g., general funds (cash), or general obligation bonds, special purpose revenue bonds, etc.);
4. The fiscal period of the appropriation; [Note: A specified period of appropriation, such as fiscal year 2021-2022, is required for appropriations for which the source is general obligation bonds or general funds. (See article VII, section 11, of the Hawaii State Constitution)];
5. The expending agency; and
6. The dollar amount of the appropriation. [Note: If the specific amount of funds necessary to accomplish the purpose of the appropriation is unknown at the time of drafting the measure, the dollar amount may be left unspecified.]

Part III. Purposes of Appropriations

An appropriation bill generally specifies the purpose of the appropriation. For example, the Legislature may appropriate funds for various purposes that range in scope from establishing an international business and technology incubator program in Hawaii to purchasing real property for the purpose of operating, managing, and maintaining existing affordable rental units and developing additional rental units. In most stand-alone appropriation bills, the appropriation

provision will specify the purpose of the appropriation. See section 1 of Example 7-1 on page 155. However, if the appropriation provision is part of a larger bill in which the purpose has been made clear, the language concerning the purpose of an appropriation in the appropriation provision itself can be quite terse. See section 3 of Example 7-2 on page 159.

Although not generally considered necessary (particularly in a stand-alone appropriation bill), appropriation bills occasionally contain a detailed purpose section. See Example 7-3 on page 160.

1. Operating Expenses

If the appropriation is part of a bill creating a new program or proposing to impose additional responsibilities upon a state agency, the purpose of the appropriation will likely be for operating expenses, including perhaps the hiring of staff necessary to implement the new program. Appropriations to cover the cost of goods and services are also considered operating expenses. Operating expenses or "operating costs" is broadly defined in section 37-62, Hawaii Revised Statutes (HRS), to mean "recurring costs of operating, supporting[,] and maintaining authorized programs, including costs for personnel salaries and wages, employee fringe benefits, lease payments, supplies, materials, equipment, and motor vehicles." Thus, the majority of appropriation provisions will likely fall under the category of operating expenses.

For the most part, appropriations for operating expenses will be made out of moneys in the general fund or, in some cases, special or revolving funds. All state departments and agencies may expend appropriations of cash for operating expenses.

2. Capital Expenditures

If the purpose of an appropriation is for nonoperating expenses, it is most likely for a capital expenditure. Capital expenditure generally refers to a nonrecurring expenditure for an item related to the construction of a capital improvement project, including cost items for the planning, acquisition, and development of land, the design and construction of new facilities, or renovations or additions to existing facilities, landscaping, equipment, and furnishings.

Capital improvement project (often referred to as "CIP") appropriations are usually for substantial amounts of money to fund costly construction projects such as new buildings, road construction, and other types of major projects. Although they may be funded by "cash" using general funds, capital improvement projects are typically funded by issuing bonds, usually general obligation bonds but sometimes revenue bonds. The proceeds of the bonds are then appropriated to finance the project. The rationale for selling bonds (rather than using cash) to pay for these projects is that a building, sewer system, or other similar project can be expected to have a long and useful life that will benefit future as well as present taxpayers. Selling bonds allows the cost of the project to be spread over a period

of years and thus paid for, in part, by the future users and beneficiaries of the project. See Example 7-4 on page 162.

While some individual CIP appropriations measures may be originally drafted as separate bills, most CIP appropriations will eventually be inserted into the budget.

Finally, although most CIP appropriations are made to state agencies to fund state projects, CIP appropriations may also be made to a county for expenditure by the county.

Part IV. Source or Manner of Appropriation

The manner in which funds are appropriated often depends upon the purpose or source of the appropriation.

1. Appropriations from General Revenues/General Funds

As noted previously, appropriations for operating expenses will most likely be general revenue moneys ("general revenues" or "general funds") from the general fund.³ However, operating expenses may also be appropriated out of special and revolving funds. With respect to the general fund, section 103-2, HRS, provides:

All revenues of the State or of any agency thereof not specifically appropriated to other purposes shall be general realizations of the State to be available for general use in financing government operations and services, which revenues and realizations in their aggregate are herein referred to as the "general fund". Expenditures from this fund shall be authorized by the legislature through appropriations or otherwise, and expenditures shall be made in accordance with laws and regulations governing the expenditure of public funds generally.

Bills appropriating funds from general revenues (general fund) are probably the most common type of measure a bill drafter may be asked to draft. Even a simple stand-alone appropriation bill should contain at least three distinct components. (The first and second of these components may or may not be organized into separate bill sections.) The first component contains standard language describing the amount, the fiscal period, and the purpose of the appropriation. The second component relates to the expending agency of the appropriation, and the third component states the effective date, which normally is July 1 to coincide with the start of the State's fiscal year. See Example 7-1 on page 155.

³ "General fund" means the fund used to account for all transactions that are not accounted for in another fund. Section 37-62, Hawaii Revised Statutes (HRS).

With respect to the fiscal time period during which an appropriation is authorized for expenditure, there are several rules of which a bill drafter should be aware:

- a. Article VII, section 11, of the Hawaii State Constitution, specifies that appropriations whose source is the general fund must be for a specific time period, not to exceed three years.
- b. A bill should not appropriate funds in *different* fiscal bienniums which will obligate a future legislature to an act by a prior legislature.
- c. In the first year of a fiscal biennium (an odd-numbered year) an appropriation (such as with an ongoing program) may be for both the first and second year of the biennium.

The following is an example of an appropriation for operating expenses for both years of a fiscal biennium from general funds:

SECTION _____. There is appropriated out of the general revenues of the State of Hawaii the sum of \$_____ or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 to carry out the purposes of this Act, including the hiring of necessary staff.

The sums appropriated shall be expended by the department of _____.

Note that because a separate sum is authorized for expenditure in each fiscal year of the biennium, the word "sum" is made plural in the expenditure paragraph (because two separate "sums" are being expended).

- d. If the purpose of the appropriation does not require ongoing funding or if it is the second year of the fiscal biennium (an even-numbered year), the appropriation should be for one year only.

The following is an example of an appropriation from general funds for operating expenses for a single fiscal year:

SECTION _____. There is appropriated out of the general revenues of the State of Hawaii the sum of \$_____ or so much thereof as may be necessary for fiscal year 2022-2023 to carry out the purposes of this Act, including the hiring of necessary staff.

The sum appropriated shall be expended by the department of _____.

In contrast to the example in item 1(c) above, the word "sum" is singular in the expenditure paragraph for an appropriation made for a single fiscal year (because only a single "sum" is being expended).

2. Special and Revolving Funds, Generally

Special funds⁴ and revolving funds⁵ are generally established to serve a particular purpose and are intended to be financially self-sustaining through dedicated funding, such as user fees. The bill drafter should be aware that there are several statutory provisions relating to the establishment of special funds and revolving funds. In particular, the special or revolving fund should provide an appropriate means of financing the particular program or activity, and there should be a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program or activity. (See sections 37-52.3 and 37-52.4, HRS.)

a. Appropriations to Special or Revolving Funds

An appropriation of money from the general fund into a special or revolving fund is not necessarily a requirement for establishing the fund as there may be sufficient income generated by the special or revolving fund in its start-up year to accomplish the purpose of the fund. Nevertheless, when drafting a bill that creates or establishes a special or revolving fund, the tendency in recent years has been to provide funding from the general fund for the first year. The following boilerplate language illustrates the practice of appropriating general funds as "seed money" for a new special or revolving fund:

SECTION _____. There is appropriated out of the general revenues of the State of Hawaii the sum of \$_____ or so much thereof as may be necessary for fiscal year 2020-2021 to be deposited into the _____ special fund.

SECTION _____. There is appropriated out of the _____ special fund the sum of \$_____ or so much thereof as may be necessary for fiscal year 2020-2021 for _____.

The sum appropriated shall be expended by the _____ for the purposes of this Act.

⁴ "Special funds" means funds that are dedicated or set aside by law for a specified object or purpose, but excluding revolving funds and trust funds. Section 37-62, HRS.

⁵ "Revolving fund" means a fund from which is paid the cost of goods and services rendered or furnished to or by a state agency and which is replenished through charges made for the goods or services or through transfers from other accounts or funds. Section 37-62, HRS.

Note: The first of the two sections provides only for the *deposit* of general fund moneys into a special fund. The second section authorizes the expenditure of those deposited moneys. Accordingly, the sentence containing expenditure instructions is included only in the second section.

Regardless of whether an appropriation is made *into* a newly established special (or revolving) fund, money may not be expended *from* the special or revolving fund unless an appropriation is made *out* of the fund. (See article VII, section 5, of the Hawaii State Constitution.) As a practical matter, the language for a special (or revolving) fund appropriation is similar to that of a general fund appropriation, in that it contains the amount, fiscal period, and purpose of the appropriation, the expending agency, and the effective date.

b. Appropriations into the General Fund from Special or Revolving Funds

An appropriation of money from a special or revolving fund to the general fund may be performed for a variety of reasons, including to help balance the State's budget, fund a program, or reduce the balance of the special or revolving fund. The moneys transferred to the general fund are then available for appropriation in the same manner as other moneys in the general fund.

Generally, an appropriation of money from a special or revolving fund into the general fund is permissible except when transferring the funds would violate the Hawaii State Constitution. In *Hawaii Insurers Council v. Lingle*, 120 Hawai'i 51, 201 P.3d 564 (2008), the Hawaii Supreme Court held that transferring moneys from the insurance regulation fund (a fund containing revenue from fees adopted and assessed by the Department of Commerce and Consumer Affairs) to the general fund violated the separation of powers doctrine of the Hawaii State Constitution because it impermissibly blurred the distinction between the executive power to assess regulatory fees and the legislative power to tax for general purposes.

Accordingly, to avoid violating the Hawaii State Constitution when drafting an appropriation of money from a special or revolving fund to the general fund, the bill drafter must verify that the moneys transferred from the special or revolving fund are not the revenue from regulatory fees adopted and assessed by a department. Typically, moneys in special or revolving funds administered by the Department of Commerce and Consumer Affairs are constitutionally prohibited from being transferred to the general fund. Certain special or revolving funds administered by other departments may also be subject to the same prohibition.

The following boilerplate language illustrates the practice of appropriating money from a special or revolving fund to the general fund:

SECTION _____. There is appropriated out of the _____ special fund the sum of \$_____ or so much thereof as may be necessary for fiscal year 2020-2021 to be deposited into the general fund.

Note: Notice that the section does not include the sentence containing expenditure instructions because the expenditure will typically be addressed by a different bill.

3. Grants and Grants-in-Aid

Pursuant to chapter 42F, HRS, an appropriation may also be made in the form of a grant. Under chapter 42F, a grant is an award of state funds by the Legislature to a specific private or non-state recipient to support the activities of the recipient and permit the community to benefit from those activities.

Generally, the language follows a typical general fund appropriation, except for a reference to the authorizing statutory law, as in the following:

SECTION _____. There is appropriated out of the general revenues of the State of Hawaii the sum of \$_____ or so much thereof as may be necessary for fiscal year 2022-2023 as a grant pursuant to chapter 42F, Hawaii Revised Statutes, to [name of grantee].

For an example of grant appropriation language, see sections 4 through 84 of Act 39, Session Laws of Hawaii 2019. In recent years, the House of Representatives has limited the introduction of bills for grants by individual legislators. Accordingly, a drafter should consult applicable House or Senate rules or procedures for guidance when drafting this type of appropriation measure.

Appropriations may also be made to counties in the form of grants-in-aid to the various counties for capital improvement projects (see chapter 214, HRS). These bills are similar in format to general appropriation bills, except that the words "grant-in-aid" may appear in the body and sometimes the title of the bill. See Example 7-5 on page 164.

4. General Obligation Bonds

As noted previously, general obligation bonds (often referred to as "GO bonds") are frequently used to finance costly capital items (such as roads, buildings, sewage systems, or parks) that are expected to last for a long time, thereby justifying payment for these projects through the sale of bonds rather than cash. GO bonds are backed by the full faith and credit of the State.

The structure of the general obligation bond bill is slightly different from that of a general fund appropriation bill.

In the first section (which, like the general fund appropriation, contains standard language describing the amount, the fiscal period, and the purpose of the appropriation), the Legislature *both authorizes* the Director of Finance to issue the general obligation bonds, in a specified amount, *and appropriates* the same sum or as much as is necessary for the specified purpose. The expending agency may be indicated in this section or in a separate section. See section 1 of Example 7-4 on page 162.

The next section of the measure contains a lapsing provision that specifies the expenditure period of the appropriation. See section 2 of Example 7-4 on page 163. (More will be said about lapsing provisions later.) Presumably, this is in recognition of the fact that the expenditure of bond proceeds for capital items, unlike the expenditure of cash for goods and services, may require an extension beyond the fiscal year in which the funds were appropriated. As with general fund appropriations, article VII, section 11, of the Hawaii State Constitution, specifies that appropriations of general obligation bond funds must be for a specific period, not to exceed three years. Pursuant to an Attorney General opinion (Att. Gen. Op. 81-2), this three-year restriction "permits the expenditure of an appropriation, *if so specified in the act making the appropriation*, up to one year beyond the biennial period covered by the appropriation" (emphasis added). Thus, if general obligation bonds are issued in the *first* year of a biennium, the lapse date is at the end of the *third* fiscal year after the enactment (one year after the end of the biennium). However, if the bonds are issued during the *second* year of the biennium, the lapse date is at the end of the *second* fiscal year after the enactment (still one year after the end of the biennium). Simply put, the lapse date for general obligation bonds issued in the *first* year of a biennium is three years, and the lapse date for general obligation bonds issued in the *second* year of a biennium is two years.

The final bill section states the effective date, which normally is July 1 to coincide with the start of the State's fiscal year.

5. Special Purpose Revenue Bonds

Generally, special purpose revenue bonds (SPRBs) may be used to assist statutorily designated categories of private entities in raising funds to purchase or build capital facilities that are expected to generate revenues with which to repay the bondholders. These bonds, unlike general obligation bonds, are not general obligations of the State and are not secured directly or indirectly by the general credit of the State, and no moneys other than the revenues pledged to the repayment of these bonds may be used to pay them. See article VII, section 12, of the Hawaii State Constitution.

Presently, there are ten statutorily designated categories of entities for which special purpose revenue bonds may be issued. These are: nonprofit corporations that provide health care facilities to the general public; manufacturing enterprises; processing

enterprises; industrial enterprises; utilities serving the general public in providing electric energy or gas; not-for-profit corporations that provide early childhood education and care facilities serving the general public; not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities serving the general public; low- and moderate-income government housing programs; agricultural enterprises serving important agricultural lands; and dam and reservoir owners. The specific requirements of these bonds are set forth in chapter 39A, parts II through XII, HRS.

Example 7-6 on page 166 presents generic boilerplate language for special purpose revenue bonds. For specific examples, see Example 7-7 on page 169; Acts 86 and 198, Session Laws of Hawaii 2021; and Acts 41, 43, 45, 52 and 160, Session Laws of Hawaii 2019.

Generally, special purpose revenue bond legislation should include the following information:

SECTION 1. A legislative finding and declaration that the issuance of special purpose revenue bonds (SPRBs) is in the public interest and for the public health, safety, and general welfare.

SECTION 2. This section contains the authorization to the Department of Budget and Finance to issue the SPRBs.

The section also includes a legislative finding and determination that the proposed project to be funded by the SPRB proceeds qualifies as a specific type of project for which a SPRB may be issued. More specifically, each SPRB project authorization must be qualified under the appropriate part [II, III, IV, V, VI, VII, VIII, IX, X, or XII] of chapter 39A, HRS. For example, Example 7-7 on page 169 includes a legislative determination that the SPRB project qualifies as a project to assist a not-for-profit private sectarian school pursuant to part VIII of chapter 39A, HRS. A SPRB authorization cannot be qualified as more than one type, or a multiple type, of SPRB project.

Each special purpose entity must be identified by its legal name and not by a generic type (*e.g.*, "Kaiser Permanente" is the legal name and a "hospital doing business in the State" is a generic type).

SECTION 3. This section identifies the appropriate statutory part of chapter 39A, HRS, under which the SPRB and the refunding SPRB is to be issued. Each SPRB authorization must be issued pursuant to a single statutory reference and must match the statutory part referenced in section 2 of the bill.

SECTION 4. This section provides for the refunding (*i.e.*, refinancing) of the authorized SPRB at an appropriate time, including after the lapse date of the Act.

SECTION 5. By statute, a SPRB authorization shall not exceed five years from the date of enactment, and any authorization, or portion thereof, not issued shall lapse at the close of the fiscal year for that five-year period. Consequently,

this section should provide for a lapse date of not more than five years following enactment.

SECTION 6. This section contains the effective date.

In addition to the foregoing provisions, special purpose revenue bonds for not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges, and universities serving the general public under part VIII of chapter 39A, HRS, will generally contain an additional section that authorizes bond pooling. This section makes it more feasible for small schools to take advantage of SPRBs by reducing underwriting and interest costs. See section 4 of Example 7-7 on page 170.

6. Special Facility Revenue Bonds

While rarely used, the issuance of special facility revenue bonds are statutorily authorized for specified buildings, structures, or facilities for: the Hawaii Community Development Authority (section 206E-182, HRS); the Hawaii Technology Development Corporation (section 206M-42, HRS); and the Department of Transportation (sections 261-52 and 266-52, HRS).

7. Other Sources of Funding

Although rarely used, other types of appropriation measures may be requested of a drafter that draw on other sources of funding, including trust funds,⁶ federal funds, and revenue bonds.⁷ Although appropriations involving general obligation bonds, revenue bonds, and federal funds are typically consolidated and included in the state budget, there are no constitutional or statutory prohibitions against appropriating or authorizing the use of such bonds or funds in a single, stand-alone appropriation bill.

If the specific source of funding is uncertain, the drafter may refer to the foregoing sections for guidance. If the drafter is directed to include specific sources of financing listed in the Governor's CIP budget document, the following format may be used as section 1 of the bill; however, the drafter should consult the most current version of the budget for the appropriate letter symbols for the means of financing (MOF):

SECTION 1. The following sums or so much thereof as may be necessary for fiscal year 20__-20__ to finance the projects set forth in this Act are appropriated or

⁶ "'Trust fund' means a fund in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes." Section 37-62, HRS. Trust funds need not be appropriated for expenditure, except as provided in section 37-40, HRS.

⁷ "'Revenue bonds' mean all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system, or loan program and any loan made thereunder and secured as may be provided by law." Section 37-62, HRS.

authorized, as the case may be, from moneys in the treasury received from general revenues, special funds, general obligation bond funds, harbor revenue bond funds, airport revenue bond funds, university of Hawaii revenue bond funds, Hawaii housing authority bond funds, and grants, to be expended by the department of accounting and general services, unless otherwise specified. The letter symbols used after the specific project appropriations, if any, indicate the source of financing and have the following meanings: (A) general fund, (B) special fund, (C) general obligation bond fund, (D) general obligation bond fund with debt service cost to be paid from special funds, (E) revenue bond funds, (J) federal aid interstate funds, (K) federal aid primary funds, (L) federal aid secondary funds, (M) federal aid urban funds, (N) federal funds, (P) other federal funds, (R) private contributions, (S) county funds, (T) trust funds, (U) interdepartmental transfers, (W) revolving funds, (X) other funds.

For those projects involving a combination of funds but not necessarily all of the above, the drafter should modify the first section accordingly and exclude those types of funds not being appropriated. See Example 7-8 on page 172.

Part V. Miscellaneous Provisions

1. Matching Funds

Funds may be appropriated on a matching basis. However, the word "matching," without any further directions, implies a 50-50 split. If this is not the intent, for example where 40 percent state funds are to be appropriated against 60 percent of other specified funds, use of only the term "matching" would be insufficient. Accordingly, the better practice is to specify a dollar-for-dollar match or the specific percentage that is to be matched. See Example 7-9 on page 174.

2. Appropriation Measures Passed Before Budget

Article VII, section 9, of the Hawaii State Constitution prohibits any appropriation bill from being passed on final reading until the general appropriation (budget) or supplemental appropriation (supplemental budget) bill is officially transmitted to the Governor. The only exceptions are bills to cover expenses of the Legislature and bills recommended by the Governor for immediate passage, such as certain emergency appropriations.

Bills recommended by the Governor for immediate passage should contain the following language:

SECTION _____. This Act is recommended by the governor for immediate passage in accordance with article VII, section 9, of the Constitution of the State of Hawaii.

The drafter should also note that emergency appropriation bills differ from typical appropriation language in that funds are being appropriated from the present fiscal year rather than the forthcoming fiscal year and are effective upon approval rather than July 1. See Example 7-10 on page 175.

3. Exceeding the General Fund Expenditure Ceiling

On occasion, if an appropriation or emergency appropriation bill appropriates funds that will cause the current fiscal year general fund expenditure ceiling to be exceeded, language needs to be included in the bill that states this expenditure ceiling breach and the reasons therefor. [Note: The inclusion of this section is only necessary if the general fund expenditure ceiling has been exceeded for the fiscal year in which the appropriation/emergency appropriation is needed.]

Pursuant to article VII, section 9, of the Hawaii State Constitution, no appropriation in excess of the general fund expenditure ceiling set by the Legislature shall be authorized unless the bill:

- a. Sets forth the dollar amount and the percentage rate by which the ceiling will be exceeded;
- b. States the reason for exceeding the expenditure ceiling; and
- c. Is passed by a two-thirds majority of each house.

The following boilerplate language may be used for this purpose:

SECTION _____. In accordance with section 9 of article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 20__-20__ to be exceeded by \$_____, or ___ per cent. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs addressed by this Act.

See section 3 of Example 7-11 on page 179. See also section 4 of Example 7-12 on page 183 for an example of an emergency appropriation being made in a fiscal year in which the general fund expenditure ceiling has already been exceeded.

4. Lapsing

Unless otherwise specified, all unexpended and unencumbered general funds and general obligation bond funds are automatically lapsed by law at the end of the fiscal period for which appropriated (not more than two years for general funds and not more than three years for general obligation bonds) and returned to the general fund. See article VII, section 11, of the Hawaii State Constitution; see also sections 37-41 and 40-66, HRS. Given this automatic lapsing, it is not necessary to include a lapsing provision in a general fund appropriation measure. However, a lapsing provision is generally included in general obligation bond bills to clarify that the expenditure of the funds may extend beyond the fiscal biennium in which appropriated. (See the foregoing discussion on general obligation bonds in part IV, item 4, on page 146 of this chapter.) An authorization to issue bonds other than general obligation bonds should also include a lapsing provision. Pursuant to chapter 39A, HRS, the authorization to issue special purpose revenue bonds shall not exceed five years. See section 5 of Example 7-6 (page 167) and section 6 of Example 7-7 (page 171). The general practice in recent years has also been to provide lapsing dates for unencumbered appropriations to a special or revolving fund (see Act 115, section 6, and Act 118, section 26, Session Laws of Hawaii 2006). The following boilerplate language may be used for this purpose:

Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 20__ shall lapse into the _____ fund.

In some cases, the requester may not want special funds that have been appropriated to lapse to the general fund. In this case, the following language may be used:

Moneys on balance in the _____ special fund at the close of each fiscal year shall remain in that fund and shall not lapse to the credit of the general fund.

5. Mandated Costs

Under article VIII, section 5, of the Hawaii State Constitution, if any new program or increase in the level of service under an existing program is mandated to any county by the Legislature, the State must share in the cost. An appropriation to satisfy this mandate to all counties should use the following format:

SECTION _____. There is appropriated out of the general revenues of the State of Hawaii the following sums or so

much thereof as may be necessary for fiscal year 20__-20__ to assist the counties in implementing section ___ of this Act:

County of Hawaii	\$
County of Kauai	\$
County of Maui	\$
City and county of Honolulu	\$ _____
Total	\$

The sums appropriated shall constitute the State's share of the cost of the mandated program under article VIII, section 5, of the state constitution.

Part VI. Amending Prior Appropriations

Appropriations made in previous years may be amended. Two examples follow:

SECTION __. Act 97, Session Laws of Hawaii 2006, is amended by amending section 2 to read as follows:

"SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,000,000 or so much thereof as may be necessary for fiscal year 2006-2007 to be deposited into the State of Hawaii endowment fund, from which the income and capital gains shall be used for the production of music by an Oahu-based symphony orchestra; provided that the funds appropriated in this section are matched, dollar-for-dollar, by private funds[-] or pledges pursuant to section 40-88, Hawaii Revised Statutes. Any unexpended or unencumbered balances from the appropriation shall lapse to the general fund on June 30, 2009.

The sum appropriated shall be expended by the department of accounting and general services for the purposes of this Act."

or

SECTION 1. Act 248, Session Laws of Hawaii 2006, is amended by amending section 3 to read as follows:

"SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of [~~\$400,000~~] \$200,000 or so much thereof as may be necessary for fiscal year [~~2006-2007~~] 2007-2008 to establish a pilot perinatal clinic and provide case management services.

The sum appropriated shall be expended by the [~~John A. Burns school of medicine university clinical educational and research associates program at the University of Hawaii department of obstetrics, gynecology, and women's health~~] department of human services for the purposes of this Act."

Amendments to items in earlier budget measures may be drafted as follows:

SECTION __. Act 197, Session Laws of Hawaii 20__,
section 2, part III, item H.1., is amended to read as follows:

"1. [~~Hilo Rehabilitation Center~~] \$500,000
Hilo Human Development Center—
for construction and equipment."

or

SECTION __. Act 187, Session Laws of Hawaii 20__,
section 1, item I.15., is amended to read as follows:

"15. [~~Rehabilitation Complex~~] [~~\$60,000~~] \$65,000
Human Development Center, Hilo,
Hawaii--Plans, construction,
equipment, and other
appurtenances for the
[~~sheltered workshop~~] center."

Example 7-1

STAND-ALONE APPROPRIATION BILL
APPROPRIATING FUNDS FOR TWO FISCAL YEARS

THE SENATE
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1 SECTION 1. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$330,000 or so much
3 thereof as may be necessary for fiscal year 2021-2022 and the
4 same sum or so much thereof as may be necessary for fiscal year
5 2022-2023 for an oversight coordinator position and necessary
6 support staff positions for the Hawaii correctional system
7 oversight commission, as authorized by section 353L-2, Hawaii
8 Revised Statutes.

9 The sums appropriated shall be expended by the department
10 of the attorney general for the purposes of this Act.

11 SECTION 2. This Act shall take effect on July 1, 2021.

12

INTRODUCED BY: _____

Example 7-2

**APPROPRIATION IN A BILL THAT ESTABLISHES
SUBSTANTIVE LAW**

THE SENATE
TWENTY-FOURTH LEGISLATURE, 2019
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. The legislature finds that agricultural theft
2 and vandalism are a constant worry for farmers and ranchers in
3 the State. Given the broad acreage that many farming and
4 ranching operations encompass, it is often difficult for farmers
5 and ranchers to police their entire operations at all times.
6 Furthermore, vigilance after work hours may be challenging
7 because not all farmers and ranchers are able to live on or near
8 the fields where they work. These factors make agricultural
9 operations easy prey for theft or vandalism and increase the cost
10 of production, making it more difficult for farming and ranching
11 operations to be successful.

12 The legislature further finds that individuals who grow
13 food or other agricultural products for their own use or for sale
14 also may be targets of agricultural product theft and vandalism.
15 This theft and vandalism dispossesses victims of food they have

S.B. NO.

1 grown, deprives them of a source of income, and reduces their
2 self-sufficiency.

3 The purpose of this Act is to establish a two-year
4 agricultural theft and vandalism pilot project to examine the
5 effectiveness of prosecuting agricultural theft and vandalism
6 cases in the counties of Hawaii and Maui, including theft and
7 vandalism affecting individuals who are not full-time farmers or
8 ranchers.

9 SECTION 2. (a) The department of agriculture shall:

- 10 (1) Establish a two-year agricultural theft and vandalism
11 pilot project to examine and assess the effectiveness
12 of prosecuting agricultural theft and agricultural
13 vandalism cases in the counties of Hawaii and Maui;
- 14 (2) Examine and assess the effectiveness of prosecuting
15 the theft of agricultural products produced for
16 personal or commercial use on any land, regardless of
17 land classification, and agricultural vandalism;
- 18 (3) Partner with the counties of Hawaii and Maui to hire
19 one full-time equivalent (1.0 FTE) enforcement officer
20 for each county, to be placed within the respective
21 prosecuting attorney's office or any other law
22 enforcement agency; and
- 23 (4) Assess the implementation of the pilot project,
24 including the pilot project's effectiveness in:

S.B. NO.

- 1 (A) Identifying the number of convictions for
2 agricultural theft and agricultural vandalism;
- 3 (B) Identifying best practices for prosecuting
4 perpetrators of agricultural theft and
5 agricultural vandalism;
- 6 (C) Identifying best practices for the coordination
7 of local police and other enforcement officers'
8 interaction between the prosecuting attorney's
9 office and the judiciary;
- 10 (D) Identifying best practices for the development
11 and implementation of the public's and farmers'
12 reporting of agricultural theft, agricultural
13 vandalism, or the attempt of agricultural theft
14 or vandalism;
- 15 (E) Identifying areas where agricultural theft and
16 agricultural vandalism are most prevalent;
- 17 (F) Identifying best practices for preventing
18 agricultural theft and agricultural vandalism;
19 and
- 20 (G) Making recommendations for a statewide program to
21 address agricultural theft and agricultural
22 vandalism.
- 23 (b) Based on the department of agriculture's assessment of
24 the agricultural theft and vandalism pilot project, the

S.B. NO.

1 department shall determine whether to continue, expand, or end
2 the pilot project.

3 (c) The department of agriculture shall submit reports to
4 the legislature of its findings and recommendations, including
5 any proposed legislation, no later than twenty days prior to the
6 convening of the regular sessions of 2020 and 2021.

7 SECTION 3. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$200,000 or so much
9 thereof as may be necessary for fiscal year 2019-2020 for the
10 purposes of this Act.

11 The sum appropriated shall be expended by the department of
12 agriculture for the purposes of this Act.

13 SECTION 4. This Act shall take effect on July 1, 2019.

14

INTRODUCED BY: _____

Example 7-3

APPROPRIATION BILL WITH PURPOSE SECTION

HOUSE OF REPRESENTATIVES
THIRTIETH LEGISLATURE, 2019
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO ADDRESS CONFIDENTIALITY.

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

1 SECTION 1. The legislature finds that on July 5, 2018,
2 Governor David Ige signed Act 115, Session Laws of Hawaii 2018,
3 known as the Address Confidentiality Act, into law. This law
4 provides survivors of domestic abuse, sexual offenses, or
5 stalking with a substitute address to be used by state and local
6 government agencies instead of their physical address. The
7 substitute address may be used whenever an address is required
8 for public records. Mail is received at the substitute address
9 and forwarded to the survivor's actual address.

10 The legislature also finds that no moneys were allocated to
11 support the program, and without additional funding, the Hawaii
12 criminal justice data center's current budget is unable to absorb
13 the start-up and day-to-day operational cost of maintaining the
14 program. Currently, the Hawaii criminal justice data center is
15 preparing to implement the program, but unless necessary funding
16 is available, the Hawaii criminal justice data center will be
17 unable to carry out the program's objectives.

H.B. NO.

1 Accordingly, the purpose of this Act is to appropriate
2 funds for two full-time equivalent (2.0 FTE) positions, operating
3 costs, and equipment to support the Hawaii criminal justice data
4 center in administering the address confidentiality program
5 pursuant to chapter 801G, Hawaii Revised Statutes.

6 SECTION 2. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$147,500 or so much
8 thereof as may be necessary for fiscal year 2019-2020 and the sum
9 of \$153,000 or so much thereof as may be necessary for fiscal
10 year 2020-2021 for two full-time equivalent (2.0 FTE) positions,
11 operating costs, and equipment to support the Hawaii criminal
12 justice data center in administering the address confidentiality
13 program pursuant to chapter 801G, Hawaii Revised Statutes.

14 The sums appropriated shall be expended by the department
15 of the attorney general for the purposes of this Act.

16 SECTION 3. This Act shall take effect on July 1, 2019.

17

INTRODUCED BY: _____

Example 7-4

ISSUANCE OF GENERAL OBLIGATION BONDS TO FUND
CAPITAL IMPROVEMENT PROJECTS

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO CAPITAL IMPROVEMENT PROJECTS FOR THE STATE.

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

1 SECTION 1. The director of finance is authorized to issue
2 general obligation bonds in the sum of \$2,000,000 or so much
3 thereof as may be necessary and the same sum or so much thereof
4 as may be necessary is appropriated for fiscal year 2021-2022 for
5 the purpose of financing capital improvement projects as follows:

6 1. To be expended by the department of land and natural
7 resources:

8 A. Iolani Palace, Oahu

9 Construction and equipment for
10 renovation of and improvements to the
11 roof of Iolani Palace.

12 Construction	\$ 990,000
13 Equipment	\$ 10,000
14 Total funding	\$1,000,000

15 2. To be expended by the department of accounting and general
16 services:

17 B. State archives, Oahu

1 Plans for the development of a state
 2 archives master plan to include the
 3 expansion and creation of new
 4 collections processing and storage,
 5 administrative, public research,
 6 exhibition, and community engagement
 7 spaces.

8	Plans	\$1,000,000
9	Total funding	\$1,000,000

10 SECTION 2. The appropriation made for the capital
 11 improvement projects authorized by this Act shall not lapse at
 12 the end of the fiscal biennium for which the appropriation is
 13 made; provided that all moneys from the appropriation
 14 unencumbered as of June 30, 2024, shall lapse as of that date.

15 SECTION 3. This Act shall take effect on July 1, 2021.

16

INTRODUCED BY: _____

Example 7-5

GRANT-IN-AID TO COUNTIES

THE SENATE
TWENTY-THIRD LEGISLATURE, 2019
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO THE COUNTIES.

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

1 SECTION 1. The legislature finds that the International
2 Accreditation Service provides objective evidence that an
3 organization operates at the highest level of ethical, legal, and
4 technical standards. The International Accreditation Service
5 accredits a wide range of companies and organizations, including
6 governmental entities, commercial businesses, and professional
7 associations.

8 The International Accreditation Service accreditation
9 programs are based on recognized national and international
10 standards, such as building and structural standards, that ensure
11 domestic and global acceptance of its accreditations. As a
12 result, International Accreditation Service accredited companies
13 and organizations can improve their processes using input gained
14 from onsite assessment and by learning about best practices from
15 International Accreditation Service assessors and peer
16 evaluators. Furthermore, an International Accreditation Service
17 accreditation can result in reduced cost, time savings, and

S.B. NO.

1 improvement of products and services. Thus, if applied to county
2 building codes, an accreditation by the International
3 Accreditation Service can enable county building agencies to
4 ensure buildings meet the best and most current, accepted
5 standards.

6 The purpose of this Act is to appropriate funds for a
7 grant-in-aid to each county for the county agency responsible for
8 enforcing its respective building code to be accredited by the
9 International Accreditation Service.

10 SECTION 2. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$80,000 or so much
12 thereof as may be necessary for fiscal year 2019-2020 for a
13 grant-in-aid to each county, other than the county of Kalawao,
14 for the county agency responsible for enforcing its respective
15 building code to be accredited by the International Accreditation
16 Service, to be allocated as follows:

- 17 (1) \$20,000 to the city and county of Honolulu;
- 18 (2) \$20,000 to the county of Maui;
- 19 (3) \$20,000 to the county of Hawaii; and
- 20 (4) \$20,000 to the county of Kauai.

21 The sum appropriated shall be expended by each county for
22 the purposes of this Act.

23 SECTION 3. This Act shall take effect on July 1, 2019.

24

INTRODUCED BY: _____

Example 7-6

**BOILERPLATE LANGUAGE FOR BILL AUTHORIZING
THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS**

HOUSE OF REPRESENTATIVES
LEGISLATURE, 20__
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR *[TYPE OF
ENTERPRISE]*.

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

1 SECTION 1. The legislature finds and declares that the
2 issuance of special purpose revenue bonds under this Act is in
3 the public interest and for the public health, safety, and
4 general welfare.

5 SECTION 2. Pursuant to part *[II, III, IV, V, VI, VII,*
6 *VIII, IX, X, or XII]*, chapter 39A, Hawaii Revised Statutes, the
7 department of budget and finance, with the approval of the
8 governor, is authorized to issue special purpose revenue bonds in
9 a total amount not to exceed \$[], in one or more series,
10 for the purpose of assisting *[name of special purpose entity]*, a
11 *[name of state]* corporation, for *[use to which proceeds will be*
12 *applied, e.g., planning, design, and construction of the special*
13 *purpose facility]*. The legislature hereby finds and determines
14 that *[description of project]* constitute a project as defined in
15 part *[II, III, IV, V, VI, VII, VIII, IX, X, or XII]*, chapter 39A,

H.B. NO.

1 Hawaii Revised Statutes, and the financing thereof is assistance
2 to *[type of]* enterprise.

3 SECTION 3. The special purpose revenue bonds and the
4 refunding special purpose revenue bonds issued under this Act
5 shall be issued pursuant to part *[II, III, IV, V, VI, VII, VIII,*
6 *IX, X, or XII]*, chapter 39A, Hawaii Revised Statutes, relating to
7 the power to issue special purpose revenue bonds to assist *[type*
8 *of]* enterprises.

9 SECTION 4. The department of budget and finance is
10 authorized, from time to time, including times subsequent to *[the*
11 *lapsing date]*, to issue special purpose revenue bonds in whatever
12 principal amounts the department shall determine to be necessary
13 to refund the special purpose revenue bonds authorized in section
14 2 and to refund special purpose revenue bonds authorized in this
15 section, regardless of whether the outstanding special purpose
16 revenue bonds or refunding special purpose revenue bonds have
17 matured or are the subject of redemption or whether the refunding
18 special purpose revenue bonds shall be bonds for the multi-
19 project programs described in section 2. In making this
20 determination, the department shall comply with federal law
21 relating to the exemption from federal income taxation of the
22 interest on bonds of the nature authorized by this section.

H.B. NO.

1 SECTION 5. The authorization to issue special purpose
2 revenue bonds under this Act shall lapse on *[June 30, not later*
3 *than end of the fifth year following enactment]*.

4 SECTION 6. This Act shall take effect on July 1, 20__.

5

INTRODUCED BY: _____

Example 7-7

**BILL AUTHORIZING SPECIAL PURPOSE REVENUE BONDS
TO ASSIST NOT-FOR-PROFIT PRIVATE SCHOOL**

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO
ASSIST LE JARDIN ACADEMY, INC.

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

1 SECTION 1. The legislature finds and declares that the
2 issuance of special purpose revenue bonds under this Act is in
3 the public interest and for the public health, safety, and
4 general welfare.

5 SECTION 2. Pursuant to part VIII, chapter 39A, Hawaii
6 Revised Statutes, the department of budget and finance, with the
7 approval of the governor, is authorized to issue special purpose
8 revenue bonds in a total amount not to exceed \$25,000,000, in one
9 or more series, for the purpose of assisting Le Jardin Academy,
10 Inc., a Hawaii nonprofit corporation, in financing or refinancing
11 the costs of planning, designing, constructing, reconstructing,
12 renovating, acquiring, equipping, and improving educational and
13 education-related facilities for Le Jardin Academy, Inc. The
14 legislature hereby finds and determines that the planning,
15 designing, constructing, reconstructing, renovating, acquiring,
16 equipping, and improving educational and education-related

H.B. NO.

1 facilities constitutes a project as defined in part VIII, chapter
2 39A, Hawaii Revised Statutes, and the financing or refinancing
3 thereof is assistance to a not-for-profit private sectarian
4 elementary school and secondary school that serves the general
5 public.

6 SECTION 3. The special purpose revenue bonds and the
7 refunding special purpose revenue bonds issued under this Act
8 shall be issued pursuant to part VIII, chapter 39A, Hawaii
9 Revised Statutes, relating to the power to issue special purpose
10 revenue bonds to assist not-for-profit private sectarian
11 elementary schools and secondary schools that serve the general
12 public.

13 SECTION 4. The special purpose revenue bonds issued under
14 this Act may be issued in one or more series for a single
15 project, multiple projects, a single-project party, or multiple-
16 project parties pursuant to the authority of this Act and any one
17 or more other separate Acts of the legislature pursuant to part
18 VIII, chapter 39A, Hawaii Revised Statutes, and the department of
19 budget and finance may combine into a single issue of special
20 purpose revenue bonds, in one or more series, two or more
21 proposed issues of special purpose revenue bonds to be issued
22 pursuant to part VIII, chapter 39A, Hawaii Revised Statutes,
23 separately authorized, in the total amount not to exceed the

H.B. NO.

1 aggregate of the proposed separate issues of the special purpose
2 revenue bonds.

3 SECTION 5. The department of budget and finance is
4 authorized, from time to time, including times subsequent to
5 June 30, 2026, to issue special purpose revenue bonds in whatever
6 principal amounts the department shall determine to be necessary
7 to refund the special purpose revenue bonds authorized in section
8 2 and to refund special purpose revenue bonds authorized in this
9 section, regardless of whether the outstanding special purpose
10 revenue bonds or refunding special purpose revenue bonds have
11 matured or are the subject of redemption or whether the refunding
12 special purpose revenue bonds shall be bonds for the multi-
13 project programs described in section 2. In making this
14 determination, the department shall comply with federal law
15 relating to the exemption from federal income taxation of the
16 interest on bonds of the nature authorized by this section.

17 SECTION 6. The authorization to issue special purpose
18 revenue bonds under this Act shall lapse on June 30, 2026.

19 SECTION 7. This Act shall take effect on July 1, 2021.

20

INTRODUCED BY: _____

Example 7-8

MAKING APPROPRIATIONS FOR PROJECTS FROM
MULTIPLE SOURCES OF FINANCING

HOUSE OF REPRESENTATIVES
THIRTIETH LEGISLATURE, 2019
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO FORESTRY.

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

1 SECTION 1. The following sums or so much thereof as may be
2 necessary for fiscal year 2019-2020 are appropriated or
3 authorized, as the case may be, from moneys in the treasury
4 received from special funds, general obligation bond funds, and
5 federal grants to finance the projects listed below. The letter
6 symbols used after the specific project appropriations indicate
7 the source of financing and have the following meaning: (B)
8 special funds, (C) general obligation bond fund, (P) other
9 federal funds.

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|----|----|----------------------------------|-----|-------------|
| 10 | 1. | DIVISION OF FORESTRY AND | | |
| 11 | | WILDLIFE HAZARDOUS TREE | | |
| 12 | | MITIGATION, STATEWIDE | | |
| 13 | | | | |
| 14 | | CONSTRUCTION FOR HAZARDOUS | | |
| 15 | | TREE MITIGATION IN FOREST | | |
| 16 | | RESERVES, GAME MANAGEMENT AREAS, | | |
| 17 | | NATURAL AREA RESERVES, AND | | |
| 18 | | WILDLIFE SANCTUARIES. | | |
| 19 | | TOTAL FUNDING | LNR | \$200,000 B |
| 20 | | | LNR | 200,000 P |
| 21 | | | | |
| 22 | 2. | PUU WAAWAA FOREST RESERVE, | | |
| 23 | | HAWAII | | |

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CONSTRUCTION TO REPAIR
UNSAFE STRUCTURES, CLEAN TRASH
AND DEBRIS PILES, AND MITIGATE
ENVIRONMENTAL HAZARDS OF THE
AREA.

TOTAL FUNDING LNR 100,000 C

3. PUU OO SADDLE HOUSE, UPPER
WAIAKEA FOREST RESERVE,
HAWAII

REPAINT AND REPAIR ROOF,
GUTTERS, WATER TANK, STAIRS, AND
DECK OF EXISTING CABIN.

TOTAL FUNDING LNR 101,000 C
LNR 3,000 P

SECTION 2. The sums appropriated shall be expended, and
the bonds authorized shall be issued, by the department of land
and natural resources for the purposes of this Act.

SECTION 3. The appropriations made by this Act shall not
lapse at the end of the fiscal year for which the appropriation
is made; provided that all moneys from the appropriation
unencumbered as of June 30, 2021, shall lapse into the fund from
which appropriated as of that date. Any unissued balance of any
authorization made by this Act as of the close of business on
June 30, 2021, shall lapse.

SECTION 4. This Act shall take effect on July 1, 2019.

INTRODUCED BY: _____

Example 7-9

APPROPRIATION REQUIRING MATCHING FUNDS

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

MAKING AN APPROPRIATION FOR PLANS FOR A COMMUNITY CENTER AT MANOA
PARK, OAHU.

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

1 SECTION 1. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$20,000 or so much
3 thereof as may be necessary for fiscal year 2021-2022 for plans
4 for a community center at Manoa Park, Honolulu, Oahu; provided
5 that no funds shall be made available under this Act unless the
6 city and county of Honolulu provides matching funds of \$30,000
7 for the purpose for which this sum is appropriated.

8 SECTION 2. The sum appropriated shall be expended by the
9 city and county of Honolulu for the purposes of this Act.

10 SECTION 3. This Act shall take effect on July 1, 2021.

11

INTRODUCED BY: _____

Example 7-10

EMERGENCY APPROPRIATION

THE SENATE
THIRTIETH LEGISLATURE, 2019
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF
TRANSPORTATION TO FUND LANDSLIDE RECOVERY EFFORTS.

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

1 SECTION 1. This Act is recommended by the governor for
2 immediate passage in accordance with article VII, section 9, of
3 the Constitution of the State of Hawaii.

4 SECTION 2. On February 18, 2019, ongoing heavy rains
5 triggered landslides on the slopes adjacent to the Pali highway
6 in the city and county of Honolulu. On February 23, 2019, the
7 same weather system triggered landslides in the county of Maui,
8 causing extensive damage to the Honoapiilani highway, route 30.
9 Funding is critically needed to address both sites and remove
10 debris, inspect damage, scale slopes, remove additional materials
11 that are at risk of falling, and construct rockfall protection
12 structures for the public's safety.

13 The purpose of this Act is to make an emergency
14 appropriation to the department of transportation to mitigate
15 damages from the recent landslides on the Pali highway and
16 Honoapiilani highway and to prevent future landslides in both
17 locations, ensuring the safe mobility of people and goods.

S.B. NO.

1 SECTION 3. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$7,000,000 or so much
3 thereof as may be necessary for fiscal year 2018-2019 to fund
4 landslide recovery efforts for the Pali highway, including
5 maintenance of contraflow lanes, and the Honoapiilani highway,
6 including maintenance of limited access restrictions from mile
7 marker thirty-six to mile marker forty-two; and the construction
8 of landslide protective structures for both sites.

9 The sum appropriated shall be expended by the department of
10 transportation for the purposes of the Act.

11 SECTION 4. If the emergency relief projects funded by this
12 Act qualify for federal relief funds, for which the Federal
13 Highway Administration may reimburse up to eighty per cent of the
14 projects' cost upon their completion, then any amounts received
15 by the department of transportation from the Federal Highway
16 Administration as reimbursement for qualified federal highway
17 relief for the projects funded by this Act shall be deposited
18 into the general fund.

19 SECTION 5. The appropriation made for the emergency relief
20 projects authorized by this Act shall not lapse at the end of the
21 fiscal year for which the appropriation is made; provided that
22 all moneys from the appropriation unencumbered as of June 30,
23 2020, shall lapse as of that date.

S.B. NO.

1 SECTION 6. This Act shall take effect upon its approval.

2

INTRODUCED BY: _____

Example 7-11

**BILL CONTAINING APPROPRIATIONS THAT WILL CAUSE
THE GENERAL FUND EXPENDITURE CEILING TO BE
EXCEEDED**

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 SECTION 1. This Act shall be known as the "Fix Our Schools
2 Act of 2006."

3 SECTION 2. The legislature finds that Hawaii's future
4 depends on our youth, and the investments we make in our young
5 people today will determine the course of our state in the years
6 to come. One of the greatest investments we can make is to
7 provide our youth with the best possible opportunities in
8 education.

9 It has been proven that a proper scholastic environment--one
10 that is safe, secure, well-maintained, and clean--is a key
11 contributor to a child's capacity to learn.

12 However, the legislature finds that there is a continuing
13 backlog of repair and maintenance projects for Hawaii's public
14 schools. In 2001, the Hawaii Opinion Poll on Public Education
15 found that rundown, poorly kept, or inadequate facilities ranked
16 third in the ten biggest problems facing our schools. Student

1 leaders at the 2005 Hawaii Secondary Student Conference passed a
2 resolution supporting the expenditure of funds to relieve the
3 backlog.

4 Hence, the purpose of this Act is to provide resources for
5 the repair, maintenance, and renovation of Hawaii's public
6 schools.

7 SECTION 3. In accordance with section 9 of article VII, of
8 the Constitution of the State of Hawaii and sections 37-91 and 37-
9 93, Hawaii Revised Statutes, the legislature has determined that
10 the appropriations contained in this Act will cause the state
11 general fund expenditure ceiling for fiscal year 2006-2007 to be
12 exceeded by \$111,841,598 or 2.1 per cent. The reasons for
13 exceeding the general fund expenditure ceiling are that the
14 appropriations made in this Act are necessary to serve the public
15 interest and to meet the needs provided for by this Act.

16 SECTION 4. There is appropriated out of the general revenues
17 of the State of Hawaii the sum of \$160,000,000 or so much thereof
18 as may be necessary for fiscal year 2006-2007 for the renovation
19 of classrooms statewide in the department of education.

20 The appropriation made by this section shall not lapse at the
21 end of the fiscal year for which the appropriation is made;
22 provided that all moneys from the appropriation unencumbered as of
23 June 30, 2008, shall lapse as of that date.

1 The sum appropriated shall be expended by the department of
2 education for the purposes of this section.

3 SECTION 5. The director of finance is authorized to issue
4 general obligation bonds in the sum of \$40,000,000 or so much
5 thereof as may be necessary and the same sum or so much thereof as
6 may be necessary is appropriated for fiscal year 2006-2007 for
7 repair and maintenance of department of education school
8 facilities.

9 The appropriation made by this section shall be deposited in
10 the state educational facilities special fund.

11 SECTION 6. There is appropriated out of the state
12 educational facilities special fund the sum of \$40,000,000 or so
13 much thereof as may be necessary for fiscal year 2006-2007 for the
14 repair and maintenance of department of education school
15 facilities.

16 The appropriation made by this section shall not lapse at the
17 end of the fiscal year for which the appropriation is made;
18 provided that all moneys from the appropriation unencumbered as of
19 June 30, 2008, shall lapse as of that date.

20 The sum appropriated shall be expended by the department of
21 education for the purposes of this section.

22 SECTION 7. There is appropriated out of the general revenues
23 of the State of Hawaii the sum of \$35,000,000 or so much thereof

1 as may be necessary for fiscal year 2006-2007 for repair and
2 maintenance of department of education school facilities.

3 The appropriation made by this section shall not lapse at the
4 end of the fiscal year for which the appropriation is made;
5 provided that all moneys from the appropriation unencumbered as of
6 June 30, 2008, shall lapse as of that date.

7 The sum appropriated shall be expended by the department of
8 education for the purposes of this section.

9 SECTION 8. This Act shall take effect on July 1, 2006.

10

INTRODUCED BY: _____

Example 7-12

**MAKING AN EMERGENCY APPROPRIATION IN A FISCAL
YEAR FOR WHICH THE GENERAL FUND EXPENDITURE
CEILING HAS ALREADY BEEN EXCEEDED**

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR
THE EMERGENCY MEDICAL SERVICES AND INJURY PREVENTION SYSTEM
BRANCH.

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

1 SECTION 1. This Act is recommended by the governor for
2 immediate passage in accordance with section 9 of Article VII of
3 the Constitution of the State of Hawaii.

4 SECTION 2. Although funds were appropriated to the
5 department of health for emergency medical services for the fiscal
6 period beginning July 1, 2006, and ending June 30, 2007, a
7 critical funding emergency now exists.

8 The purpose of this Act is to appropriate additional funds
9 for emergency aeromedical services on Oahu.

10 An additional \$1,444,828 in general funds for fiscal year
11 2006-2007 is required to pay for emergency aeromedical services
12 on Oahu. This emergency appropriation is necessary to cover the
13 reimbursement costs associated with the delivery of service by
14 the Hawaii Army National Guard in providing emergency aeromedical
15 services that were previously provided by the United States Army.

1 SECTION 3. There is appropriated out of the general revenues
2 of the State of Hawaii the sum of \$1,444,828 or so much thereof as
3 may be necessary for fiscal year 2006-2007 to reimburse costs
4 associated with the delivery of service by the Hawaii Army
5 National Guard or other provider.

6 The sum appropriated shall be expended by the department of
7 health for the purposes of this Act.

8 SECTION 4. In accordance with section 9 of article VII of
9 the Constitution of the State of Hawaii and sections 37-91 and
10 37-93, Hawaii Revised Statutes, the legislature has determined
11 that the general fund expenditure ceiling for fiscal year 2006-
12 2007 (established at \$5,357,987,705 on November 8, 2006) has
13 already been exceeded by \$90,137,694 or 1.68 per cent. The
14 appropriations contained in this Act will cause the state general
15 fund expenditure ceiling for fiscal year 2006-2007 to be exceeded
16 by an additional \$1,444,828 or an additional 0.027 per cent. The
17 calculation contained in the foregoing sentence relates only to
18 the amount of general funds appropriated in this Act for fiscal
19 year 2006-2007. The reasons for exceeding the general fund
20 expenditure ceiling are that the appropriations made in this Act
21 are necessary to serve the public interest and to meet the needs
22 provided for by this Act.

H.B. NO.

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

2

INTRODUCED BY: _____

Chapter 8

TAXATION BILLS

During each legislative session, numerous bills are requested to amend various aspects of Hawaii's tax code, codified as Title 14, Hawaii Revised Statutes (HRS). This chapter briefly discusses several of the state taxes found in Title 14, HRS, and provides guidance on drafting common types of tax bills.

Part I. Background

The purpose of this part is to provide basic information regarding many of the state taxes found in Title 14, HRS.

1. Income Tax

a. Relationship of the Hawaii Income Tax Law and the Internal Revenue Code

The Hawaii income tax law, codified as chapter 235, HRS, is based on the Internal Revenue Code (IRC). For Hawaii purposes, chapter 235, HRS, adopts provisions of the IRC that are used to determine gross income (section 61, IRC), adjusted gross income (section 62, IRC), ordinary income and loss (sections 64 and 65, IRC), and taxable income (section 63, IRC). This adoption takes place each year through the enactment of an annual Internal Revenue Code conformity bill, which is submitted to the Legislature by the Department of Taxation, as required by section 235-2.5(c), HRS.

Conformity to the IRC only involves adopting subtitle A, chapter 1 of the Internal Revenue Code of 1986, as amended. Conformity, generally, does not include the administrative provisions of the IRC found in subtitle F (sections 6001 to 7874, IRC) or other provisions of the IRC, except as provided in section 235-2.45, HRS. However, many of these administrative provisions are already codified in chapters 231 and 235, HRS. The Department of Taxation may also adopt IRC administrative provisions through the adoption of administrative rules.

Conformity to the IRC provides many benefits to both the Department of Taxation and state taxpayers. For example, the closer Hawaii conforms to the IRC, the less bookkeeping is necessary. Conformity also enables both the Department and state taxpayers to use the same basis for determining state income taxes. Further, both the Department and state taxpayers may take advantage of interpretations of the IRC that have previously been made.

The conformity bill amends section 235-2.3(a), HRS, by changing the date (generally, but not always, to December 31 of the most recent year) and adopting the IRC as it existed at that point in time. By doing so, Hawaii adopts congressional amendments to the IRC made during the prior year. Sometimes, Congress makes use of retroactive provisions when amending the IRC. In such situations, Hawaii will adopt these provisions pursuant to section 235-2.5(a)(3), HRS.

In addition to conforming Hawaii tax law to the IRC, the Legislature, either upon the recommendation of the Department of Taxation or on its own initiative, may decide not to adopt certain provisions of the IRC. This may be done by adding to the list of nonoperative IRC provisions enumerated in section 235-2.3(b), HRS. Alternatively, the Legislature may decide to adopt certain IRC provisions, but limit or change their operation in some manner. In this case, section 235-2.4 or 235-2.45, HRS, would be amended.

For example, section 235-2.4(e), HRS, reads as follows:

Example:

(e) Section 85 (with respect to unemployment compensation) of the Internal Revenue Code shall be operative for purposes of this chapter, except that section 85(c) shall not be operative for purposes of this chapter.

Note: The reference above to "(with respect to unemployment compensation)" refers to the title of section 85 of the IRC. Throughout chapter 235, HRS, and elsewhere in Title 14, HRS, references to IRC sections include, after the section number, an "(with respect to [title of the IRC section])".

Another example illustrating limited adoption of certain provisions of the IRC can be seen in section 235-2.4(a)(2):

Example:

(2) Section 63(c)(2) (relating to the basic standard deduction) of the Internal Revenue Code shall be operative, except that the standard deduction amounts provided therein shall instead mean:

- (A) \$4,400 in the case of:
 - (i) A joint return as provided by section 235-93; or
 - (ii) A surviving spouse (as defined in section 2(a) of the Internal Revenue Code);
- (B) \$3,212 in the case of a head of household (as defined in section 2(b) of the Internal Revenue Code);

- (C) \$2,200 in the case of an individual who is not married and who is not a surviving spouse or head of household;
or
- (D) \$2,200 in the case of a married individual filing a separate return....

b. Adjusted Gross Income

Adjusted gross income is the common starting place for many discussions regarding income taxes. It is a useful measurement for comparing taxpayers to each other because it includes income and deductions from gross income. Gross income includes income from all sources, whereas adjusted gross income recognizes deductions (*e.g.*, contributions to individual retirement accounts).

c. Types of Tax Benefits

- (1) **Tax Credits.** A tax credit is a direct dollar-for-dollar reduction of taxes. Accordingly, tax credits are the most desired benefit by the taxpayer.
- (2) **Tax Deductions.** Tax deductions are given for certain expenditures recognized by the IRC (*e.g.*, contributions to individual retirement accounts, net operating losses, etc.). See, for example, section 235-19, HRS. Tax deductions reduce taxable income, rather than the amount of taxes owed. As a result, they are not as beneficial to taxpayers as tax credits. Generally, depending on a taxpayer's income tax bracket, a dollar of tax deduction will only produce a fraction of the tax savings provided by a dollar of tax credit.
- (3) **Tax Exemptions.** Tax exemptions are a deduction from income. See, for example, the personal exemptions provided under section 235-54, HRS. Since an exemption reduces taxable income, the benefit to a taxpayer is similar to that of a tax deduction.
- (4) **Income Exclusions.** Income exclusions refer to certain types of income that, by law, do not need to be reported. For examples of income exclusions, see section 235-7, HRS.
- (5) **Income Tax Check-offs.** While technically not a tax benefit, income tax check-offs apply to taxpayers who are entitled to an income tax refund. An income tax check-off allows a taxpayer to reduce their tax refund by a certain amount and have that amount paid over to certain state funds. Codified in section 235-102.5, HRS, there are currently four income tax check-off options:
 - (A) Hawaii election campaign fund (section 235-102.5(a), HRS);

- (B) School-level minor repairs and maintenance special fund (section 235-102.5(b), HRS);
- (C) Libraries special fund (section 235-102.5(c), HRS); and
- (D) Split between the Hawaii children's trust fund, domestic violence and sexual assault special fund under the Department of Health, spouse and child abuse special fund under the Department of Human Services, and spouse and child abuse special account under the Judiciary (section 235-102.5(d), HRS).

d. **Relationship of Tax Benefits to Federal Income Tax Law**

A tax benefit is most beneficial to a taxpayer when *both* the IRC and the Hawaii income tax law provide the same tax benefit. For example, see section 235-55.6, HRS, and section 21, IRC, both of which provide a tax credit for expenses for household and dependent care services necessary for gainful employment.

If the State alone grants a tax benefit, without a corresponding federal benefit, the value of the tax benefit may be diminished. This is especially true for taxpayers who itemize deductions on their federal income tax returns because such taxpayers are allowed to take a federal deduction for amounts paid on state income taxes. However, if a taxpayer's state income tax liability is reduced due to a tax benefit granted by the State, then the taxpayer's federal deduction for state taxes paid will also be reduced. The result is that more of the individual's income will be taxed at the federal level. Thus, the taxpayer will pay less in state taxes, but more in federal taxes, which diminishes the overall value of the state tax benefit.

For example, if the taxpayer is taxed at a rate of 10% on their federal income taxes, the value of a state-only tax benefit, without a corresponding federal benefit will be reduced by 10% because of the increased federal tax liability. Thus, in a simple example, a \$1 state tax credit claimed by the taxpayer would be reduced in value to 90 cents.

While it is true that the value of a state tax benefit would be reduced even when both the state and federal governments provide the same tax benefit, the amount of the reduction would be lessened.

e. **Standard Deduction and Personal Exemption**

The standard deduction for taxpayers can be found at section 235-2.4(a), HRS, and the personal exemption (dependent exemption) can be found at section 235-54(a), HRS. Rather than amending income tax rates, the Legislature may choose to provide income tax relief for low-income individuals by adjusting the standard

deduction. Increasing the standard deduction reduces a taxpayer's taxable income. Adjusting the standard deduction primarily benefits low-income taxpayers, while adjusting the personal exemption benefits all taxpayers at all income levels.

2. General Excise Tax and Use Tax

a. General Excise Tax

The general excise tax, codified as chapter 237, HRS, is a privilege tax imposed on business activity in the State of Hawaii. The tax is imposed on the gross income received by the person engaging in the business activity. "Gross income" is the total of all business income prior to the deduction of business expenses. Gross income includes any cost passed on to customers, such as the general excise tax. Activities subject to the general excise tax include wholesaling, retailing, farming, services, construction contracting, rental of personal or real property, business interest income, and royalties.

Unlike a sales tax, which is a tax on the retail sales of tangible goods that is imposed on the customer, the general excise tax is a tax on the privilege of doing business in Hawaii that is imposed on the seller.

As of the time of this writing, the general excise tax rates are:

- (1) 0.15% on commissions from insurance sales;
- (2) 0.5% on manufacturing or producing;
- (3) 0.5% on wholesaling activities in which a business sells goods or services to another business for resale; and
- (4) 4.0% on all other activities, including the retail sale of tangible personal property (goods) or services, construction contracting, renting or leasing real or personal property, business interest income, commissions (except insurance commissions), and theaters and amusements.¹

b. General Excise Tax Benefits

The general excise tax system is not set up to allow the use of tax credits. As a result, the general excise tax uses exemptions as tax benefits, rather than tax credits.

Note: Some individual income tax credits in chapter 235, HRS, are intended to provide relief to low-income individuals to offset the regressiveness of the general excise tax. (The tax is considered regressive because, on a percentage of income basis, it

¹ For a discussion of the county surcharge imposed on the state general excise and use taxes, see item 4 on page 193 of this part.

takes a greater percentage of the income of a low-income individual than of a high-income individual. On the other hand, the income tax is considered progressive in that higher income tax rates are imposed on high-income individuals.) Such income tax credits provide relief to the buyer to whom, it is assumed, the general excise tax is passed by the seller. Thus, the general excise tax is collected from the seller in one year and, in the next year, the buyer may receive an income tax credit.

c. **Use Tax**

The use tax, codified as chapter 238, HRS, is a complementary tax to the general excise tax. The use tax is imposed on the purchaser of property, services, contracting, and intangibles imported for use in Hawaii and acquired from an unlicensed seller located outside of the state who is not subject to the general excise tax. The use tax is intended to discourage residents from trying to escape the general excise tax by buying goods and services on the mainland. By imposing the use tax at the same rates as the general excise tax, the use tax reduces the price advantage that unlicensed out-of-state sellers have over Hawaii sellers.

d. **Internet Purchases**

In principle, a purchase made on the Internet should generally be subject to either the general excise tax or the use tax. If the seller has a general excise tax license, then the seller is subject to general excise tax on its Internet sales. If the seller is unlicensed, then the purchaser is subject to use tax on its purchases. However, the collection of use taxes owed has historically proven to be difficult.

For many years, Hawaii, like many states, sought ways of compelling out-of-state sellers to collect and remit applicable taxes on sales made on the Internet to state residents. However, until recently, federal law prohibited states from requiring sellers to collect and remit such taxes unless the seller had a physical presence in the state. See *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992). This prohibition was overturned by the United States Supreme Court in *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018). In *Wayfair*, the Supreme Court held that a state could impose its tax collection requirements on a seller, even without a physical presence in the state, if an economic nexus existed between the seller and the state. An economic nexus could be established if the seller's sales to or transactions with residents in the state exceeded certain thresholds.

As a result, Hawaii currently asserts nexus on sellers who make more than \$100,000 in sales annually or more than two hundred transactions in the State in the previous or current calendar year. See section 237-2.5, HRS. Hawaii also deems marketplace facilitators (persons who provide a forum for a third-party to make sales to state residents) as the seller of goods and services sold through their marketplace. See section 237-4.5, HRS.

3. Other Taxes

Chapter 236E, HRS, Estate and Generation-Skipping Transfer Tax. The estate and generation-skipping transfer tax is effective for decedents dying after January 25, 2012.

Chapter 237D, HRS, Transient Accommodations Tax (TAT). This is a tax levied on the furnishing of a room, apartment, suite, single family dwelling, or the like to a transient for less than 180 consecutive days for each letting by a hotel, apartment, motel, horizontal property regime or cooperative apartment, dwelling unit, rooming house, or other place in which lodgings are regularly furnished to transients.

Chapter 239, HRS, Public Service Company Tax. This tax is levied in lieu of the general excise tax and the real property tax. The tax is based on the gross income earned by a public utility for public utility business in the preceding calendar year. Until 2001, the real property tax exemption was applied without allowing the counties to share in the public service company revenue. In 2001, the State settled a case involving the counties and allowed the counties to share in the tax revenue over four per cent received from public utilities. See, Act 64, Session Laws of Hawaii 2001. For the exemption from the general excise tax, see section 237-23(1), HRS.

Note: Section 239-6, HRS, appears to impose the public service company tax on airline activity in the State. However, federal law preempts the taxation of gross receipts for air transportation or carriage of persons in air commerce. See *Aloha Airlines, Inc. v. Director of Taxation of Hawaii*, 464 U.S. 7 (1983).

Chapter 240, HRS, Public Utilities Franchise Tax. This is a franchise tax imposed on the gross operating income of certain public utilities (electric and gas companies). Note that the telephone company does not pay this tax as it has a charter not a franchise. Public utilities, except for the telephone company, have legislatively granted franchises with taxes specified in the franchise document itself. Chapter 240, HRS, captures any franchises that do not provide for the payment of taxes or that provide for the payment of taxes at a rate lower than that found in chapter 240, HRS.

Chapter 241, HRS, Banks and Other Financial Corporations. A franchise tax in lieu of net income and general excise taxes is imposed on banks, building and loan associations, development companies, financial corporations, financial services loan companies, trust companies, mortgage loan companies, financial holding companies, small business investment companies, and subsidiaries not subject to the tax imposed by chapter 235, HRS. It is a method of taxing the interest received by financial institutions from United States government obligations that would otherwise not be taxable. For the exemption from the general excise tax, see section 237-24.8, HRS. For the exemption from the income tax, see section 235-9, HRS.

Chapter 243, HRS, Fuel Tax Law. The fuel tax is a tax on distributors for each gallon of liquid fuel refined, manufactured, produced, or compounded by the distributor and sold or used by the distributor in the State. The tax is also imposed on liquid fuel imported by the distributor, or acquired by the distributor from an unlicensed distributor, and sold or used

by the distributor in the State. The Environmental Response, Energy, and Food Security Tax (commonly referred to as the "Barrel Tax") is also a part of the fuel tax law.

Chapter 244D, HRS, Liquor Tax Law. This is a gallonage tax imposed upon "dealers" as defined in the law and certain others who sell or use liquor.

Note: Pursuant to section 244D-1, HRS, the term "use" is defined as "any use, whether such use is of such nature as to cause the property to be appreciably consumed or not, or the keeping of such property for such use or for sale, and shall include the exercise of any right or power over tangible personal property incident to the ownership of that property."

Chapter 245, HRS, Cigarette Tax and Tobacco Tax Law. "Wholesalers" and "dealers" as defined in the law must pay an excise tax on the sale or use of tobacco products and on each cigarette sold, used, or possessed.

Note: Pursuant to section 245-1, HRS, the term "use" is defined as "the exercise of any right or power incident to ownership or possession, other than the sale, or the keeping or retention for the purpose of sale."

Chapter 247, HRS, Conveyance Tax. This tax is imposed on all documents transferring ownership or interest in real property and is based on the actual and full consideration paid or to be paid.

Chapter 251, HRS, Rental Motor Vehicle, Tour Vehicle and Car-Sharing Vehicle Surcharge Tax. A surcharge tax is imposed on rental motor vehicle businesses, tour vehicle operators, and car-sharing organizations in addition to other taxes (e.g., the general excise tax).

Sections 431:7-201 to 431:7-209 and 431:8-300 to 431:8-317, HRS, Insurance Premium Tax. Section 431:19-116, HRS, Captive Insurance Companies Tax. These are taxes on insurance companies (underwriters) based on premiums written in Hawaii.

Insurance companies are exempt from taxes, except:

- a. Real property taxes;
- b. Taxes on the purchase, use, or ownership of tangible personal property; and
- c. Taxes on the gross income, gross proceeds, gross rental, or gross rental proceeds under chapter 237 or 237D, HRS.

See section 431:7-204, HRS. For the exemption from the income tax, see section 235-9, HRS. For the exemption from the general excise tax, see section 237-29.7, HRS.

4. County Surcharge on State Tax

In 2005,² the Legislature authorized the counties to adopt a surcharge on the general excise tax and use tax by ordinance at a rate of no greater than 0.5%. The surcharge revenues are required by law to be used as a funding source for certain county transportation projects. See Act 247, Session Laws of Hawaii 2005. At the time of this writing, the following counties have adopted the surcharge:

- City and County of Honolulu: The county surcharge (commonly, though inaccurately, referred to as the "Rail Tax") at the rate of 0.5% is effective from January 1, 2007, to December 31, 2030.
- County of Kauai: The county surcharge at the rate of 0.5% is effective from January 1, 2019, to December 31, 2030.
- County of Hawaii: The county surcharge at the rate of 0.25% is effective from January 1, 2019, to December 31, 2019, and at the rate of 0.5% from January 1, 2020, to December 31, 2030.

The county surcharge is added only to activities taxed at the 4.0% rate. The county surcharge does not apply to activities taxed at the 0.5% rate (*e.g.*, wholesaling) or the 0.15% rate (*i.e.*, insurance commissions).

Part II. Recurring Legislation

This part discusses basic principles of drafting common types of tax bills, specifically those that:

1. Establish income tax credits;
2. Temporarily limit the claiming of tax credits;
3. Establish general excise tax exemptions;
4. Amend tax rates;
5. Amend the disposition of tax revenues;
6. Extend the county surcharge on state tax; and
7. Establish tax holidays.

² Initially, any county seeking to adopt a county surcharge on state tax was required to do so by adopting an ordinance prior to December 31, 2005. However, the Legislature subsequently extended the date by which counties were required to adopt an ordinance to March 31, 2019. See Act 247, Session Laws of Hawaii 2005; Act 240, Session Laws of Hawaii 2015; Act 1, Special Session Laws of Hawaii 2017; and Act 11, Session Laws of Hawaii 2018.

1. Income Tax Credits

a. Necessary Provisions

When drafting a statute to establish an income tax credit, certain provisions must be included. The statute should set out, in language accessible to the reader, the subject matter for which the tax credit is being provided, which taxpayers are eligible to claim the credit, and the amount of the credit. See Example 8-1(a) and (b) on page 202. If complex qualifications must be met in order to qualify for the tax credit, definitions may be used to provide clarification. See Example 8-1(f) on page 203.

The statute should clearly state whether the tax credit is refundable (*i.e.*, a tax refund issued back to the taxpayer) or nonrefundable (*i.e.*, unused credit amount applied to future tax liability until exhausted). Most income tax credits are nonrefundable and use the following language:

If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted.

See Example 8-1(e) on page 203.

However, if an income tax credit is refundable, the following language should be used instead:

If the tax credit claimed by the taxpayer under this section exceeds the amount of the income tax payments due from the taxpayer, the excess of credit over payments due shall be refunded to the taxpayer; provided that the tax credit properly claimed by a taxpayer who has no income tax liability shall be paid to the taxpayer; and provided further that no refunds or payments on account of the tax credit allowed by this section shall be made for amounts less than \$1.

See Example 8-2(d) on page 206.

The statute should also include language that provides for the proper administration of the tax credit. This language should set out the responsibilities of the taxpayer and the Department of Taxation. See Example 8-1(d) and (e) on page 203.

When drafting a bill to establish an income tax credit, or otherwise amend the income tax law, the following language may be adapted to set the bill's effective date:

This Act, upon its approval, shall apply to taxable years beginning after December 31, 2021.

See Examples 8-1 (page 202), 8-2 (page 205), and 8-5 (page 213). See also Chapter 4, part I, item 2, beginning on page 64 of this manual for general information on effective dates.

b. Optional Provisions

- (1) **Cap Amount and Aggregate Cap Amount.** Proponents of the tax credit may wish to limit the amount of revenue loss caused by the tax credit. One way to accomplish this is to include a cap amount in the statute (*i.e.*, language setting a maximum credit amount that a taxpayer may claim). See Example 8-1(b) on page 202. To take this concept further, the statute may also include an aggregate cap amount (*i.e.*, language setting a maximum amount that may be claimed *by all taxpayers* in a taxable year). See Example 8-1(c) on page 202.
- (2) **Certification of Credit.** Some tax credits require that the taxpayer submit evidence of having completed certain tasks or incurring certain expenses in order to qualify for the tax credit. In these cases, it may be appropriate to include language in the statute requiring the taxpayer to submit the evidence to another state or county agency with relevant subject matter expertise. The agency would assess the validity of the taxpayer's evidence and certify the amount of credit that may be claimed. For example, see section 235-110.94(e) and (f), HRS, which requires taxpayers who wish to claim the organic foods production tax credit to submit evidence of qualified expenses to the Department of Agriculture for certification.
- (3) **Pass-through Entities.** Income tax credits for corporations or other businesses should include language to indicate that, in the case of partnerships, S corporations, estates, trusts, or other similar entities, the credit is to be computed at the entity level. See, for example, section 235-110.51(c), HRS. These businesses earn income at the entity level and pass it through to their individual members (*e.g.*, partners, in the case of a partnership). A tax credit would be used to offset income at the entity, rather than individual, level. If the credit was determined at the individual level, the amount of revenue lost to the State would increase, since each member would get a tax credit.

The following language may be adapted for inclusion in the statute:

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for qualified expenses [or insert appropriate language] incurred by the entity for the taxable year. The expenses [or insert appropriate language] upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined by rule.

- (4) **Avoidance of Double Tax Benefits.** A double tax benefit occurs when a taxpayer can claim more than one credit for the same transaction or can claim a deduction, exemption, or exclusion in addition to a credit. Double tax benefits at the state level should be avoided.

The following language may be adapted to avoid a double tax credit:

No taxpayer that claims a credit under this section shall claim any other credit for the same qualified costs [or insert appropriate language] under this chapter.

For example, see section 235-110.51(j), HRS.

The following language may be adapted to avoid the claiming of a tax credit and another tax benefit for the same transaction:

If a deduction is taken under section 179 (with respect to election to expense certain depreciable business assets) of the Internal Revenue Code, no tax credit shall be allowed for that portion of the qualified expenses [or insert appropriate language] for which the deduction is taken.

For example, see section 235-110.7(a), HRS.

- (5) **Recapture.** Proponents of the tax credit may wish some assurance that taxpayers who claim the credit will continue to maintain the activity for which the credit is granted. One way to accomplish this is to include language in the statute that provides for the recapture of all or a portion of the tax credits claimed in the event that certain circumstances should arise (e.g., the taxpayer fails to maintain the activity for which the credits were granted). This language is sometimes referred to as a "clawback" provision.

For example, see section 235-110.9(d), HRS, which provides that a portion of the high technology business investment tax credit shall be recaptured if the taxpayer no longer qualifies for the credit. See also, section 235-110.93(i), HRS, which provides for the recapture of the important agricultural land qualified agricultural cost tax credit if the taxpayer fails to provide the necessary information for certification of the credit.

- (6) **Cut-off Date.** Proponents of the tax credit may wish for the credit to be available for only a limited period of time. The following language may be adapted to establish a cut-off date for the tax credit:

This section shall not apply to taxable years beginning after December 31, 2027.

For example, see section 235-110.91(n), HRS, which provides that the tax credit for research activities shall not be available for taxable years beginning after December 31, 2024.

2. Temporary Limits on the Claiming of Tax Credits

During periods of economic downturn, the Legislature may seek ways of minimizing tax revenue losses. One method of accomplishing this is to draft a bill that limits the ability of taxpayers to claim certain tax credits for a specific period of time. Such a bill may also include provisions to allow taxpayers to apply the credits that they were prevented from claiming to subsequent taxable years, on the assumption that economic conditions will have improved by the time the limitation period has elapsed. See Example 8-3 on page 208.

3. General Excise Tax Exemptions

When drafting a statute to establish a general excise tax exemption, it should be kept in mind that the general excise tax is imposed on a person engaging in business (*i.e.*, the seller of services, products, contracting, etc.). Thus, exempting the buyer of the services, products, or contracting, rather than the seller, is generally incorrect.

Some exemptions are for persons (entities), while others are for amounts received by a person. Generally, it is more common to exempt amounts received. If a statute exempts a person, then none of the person's income is subject to the general excise tax. See, for example, section 237-23(a), HRS. However, if a statute exempts certain amounts received by a person, then only the specified income items received by the person are exempt from the general excise tax. Any other income received by the person is subject to the tax. For example, see sections 237-24, 237-24.3, 237-24.5, 237-24.7, and 237-24.75, HRS.

Note: A common error when drafting a tax statute to establish a general excise tax exemption involving transactions with the State or counties occurs when the statute exempts the State or counties from paying general excise taxes. The proper method is to exempt amounts

received (*i.e.*, gross income or gross proceeds) by the taxpayer from the State or counties. For example, see section 237-24.7(2), HRS.

The simplest method of exempting amounts from taxation is to amend one of the existing statutes that exempt amounts from the general excise tax (*e.g.*, sections 237-24, 237-24.3, 237-24.7, and 237-24.75, HRS). For example, section 237-24.75, HRS, could be amended to add to the exemptions enumerated there.

On the other hand, a more complex exemption may need to be set out in a completely new statute. For example, see sections 237-24.5 and 237-27.6, HRS. See also Example 8-2 on page 205.

Note: When drafting a bill that amends the general excise tax law to establish a tax exemption, the following language may be adapted to set the bill's effective date:

This Act shall take effect on July 1, 2022.

See Example 8-4 on page 212.

However, when amending the general excise tax or use tax law to change tax rates, more time must be given to allow the Department of Taxation to update its systems and forms. The following language may be adapted to set such a bill's effective date:

This Act shall take effect on January 1, 2023.

See Example 8-6 on page 222. See also Chapter 4, part I, item 2, beginning on page 64 of this manual for general information on effective dates.

4. Tax Rates

In virtually every legislative session, bills are drafted to amend various tax rates. The following table summarizes the statutes that must be amended for the tax rates most commonly amended.

Tax	HRS Sections to Amend	Examples
Income Tax	235-51	8-5 (page 213)
General Excise Tax	237-13, 237-15, 237-16.5, and 237-18	8-6 (Part I) (page 222)
Use Tax	238-2, 238-2.2, and 238-2.3	8-6 (Part II) (page 239)
Transient Accommodations Tax	237D-2	8-7 (page 248)
Environmental Response, Energy, and Food Security Tax	243-3.5 <ul style="list-style-type: none"> ▪ Subsection (a) for tax on petroleum products ▪ Subsection (b) for tax on fossil fuels 	8-8 (page 252)

Fuel Tax	243-4 <ul style="list-style-type: none"> ▪ Subsection (a) for liquid fuel taxes ▪ Subsection (b) for additional tax on diesel oil distributors ▪ Subsection (c) for taxes on alternative fuel distributors 	8-9 (page 254)
Cigarette and Tobacco Tax	245-3	8-10 (page 257)
Conveyance Tax	247-2	8-11 (page 262)
Estate Tax	236E-8	8-12 (page 266)

a. Preservation of Historical Record

Prior to 2021, certain chapters of Title 14, HRS (Chapter 235 - Income Tax Law, Chapter 244D - Liquor Tax Law, and Chapter 245 - Cigarette Tax and Tobacco Tax Law), preserved a historical record of their tax rates. In other words, whenever the tax rates were changed, a record of the tax rates for prior years was retained in the statutes. However, upon the enactment of Act 117, Session Laws of Hawaii 2021, the historical tax rates were repealed in Chapters 235 (Income Tax Law) and 244D (Liquor Tax Law), HRS. Therefore, when amending the tax rates of these chapters, the tax rates for prior years may be repealed. See Example 8-5 on page 213.

At the time of this writing, Chapter 245 (Cigarette Tax and Tobacco Tax Law), HRS, still preserves a historical record of its tax rates. Therefore, when amending the tax rates of this chapter, the tax rates for prior years should not be repealed. Instead, new tax rates should simply be added to section 245-3, HRS. See Example 8-10 on page 257.

b. Calculation of Base Dollar Amounts

Some tax rates are set out in tax tables and are progressive taxes (*e.g.*, income taxes and estate taxes). They are considered progressive because the tax rates of higher income brackets build upon the rates of lower income brackets. These tax rates are generally set out as a base dollar amount plus a percentage of the taxpayer's income. See, for example, sections 235-51 (Income Tax Rates) and 236E-8 (Estate Tax Rates), HRS.

When drafting a bill to amend these tax rates, it is important to calculate the base dollar amounts correctly. For example, look at the first three tax brackets in section 235-51(a), HRS:

If the taxable income is:	The tax shall be:
Not over \$4,800	1.40% of taxable income

Over \$4,800 but	\$67.00 plus 3.20% of
not over \$9,600	excess over \$4,800
Over \$9,600 but	\$221.00 plus 5.50% of
not over \$19,200	excess over \$9,600

Each base dollar amount is equal to the maximum value of the immediately preceding tax bracket. The maximum value of the first tax bracket may be expressed as:

$$1.40\% \times \$4,800 = \$67.20$$

Rounding to the nearest dollar, this means that the base dollar amount of the second tax bracket is \$67.

Continuing further, the maximum value of the second tax bracket may be expressed as:

$$\$67 + (3.20\% \times (\$9,600 - \$4,800)) = \$220.60$$

Rounding to the nearest dollar, this means that the base dollar amount of the third tax bracket is \$221.

This methodology may be used to calculate the base dollar amounts for all subsequent tax brackets.

5. Disposition of Tax Revenues

For the most part, tax revenues are considered state realizations and are disposed of by being deposited into the General Fund. However, some chapters of Title 14, HRS, contain provisions requiring portions of that chapter's tax revenues to be deposited into other state funds. The following table summarizes the statutes that must be amended when amending the disposition of tax revenues for the taxes that are most commonly amended.

Tax	HRS Sections to Amend	Examples
Transient Accommodations Tax	237D-6.5	8-13 (page 269)
Environmental Response, Energy, and Food Security Tax	243-3.5 <ul style="list-style-type: none"> ▪ Subsection (a) for tax on petroleum products ▪ Subsection (b) for tax on fossil fuels 	8-8 (page 252)
Cigarette and Tobacco Tax	245-15	8-14 (page 272)
Conveyance Tax	247-7	8-15 (page 278)

6. County Surcharge on State Tax

Bills may also be drafted to amend the county surcharge on state tax. A common example is a bill to extend the counties' authority to adopt an ordinance to establish a surcharge. This entails amending sections 46-16.8, 237-8.6, and 238-2.6, HRS. See Example 8-16 on page 280.

Occasionally, a bill may extend the repeal date of the county surcharge on state tax. This entails amending sections 46-16.8, 237-8.6, and 238-2.6, HRS, as well as Act 247, Session Laws of Hawaii 2005. See Example 8-17 on page 284.

Note: Pursuant to Article VIII, section 3, of the Hawaii Constitution, with the exception of real property taxes, all taxing authority is reserved to the State. This is the reason that the counties required state authorization in order to adopt the county surcharge on state tax. As a result, making changes to the county surcharge on state tax can be a somewhat complicated matter, since it often requires amendments to the Hawaii Revised Statutes and Session Laws of Hawaii, as well as to county ordinances.

7. Tax Holidays

Bills may also be drafted to establish a general excise tax holiday. A tax holiday is a government incentive that offers a temporary reduction or elimination of a tax to businesses. Some tax holiday bills establish a very broad exemption that applies to all retail transactions. See Example 8-18 on page 290. However, it is more common for tax holiday bills to establish exemptions for specific transactions. See Example 8-19 on page 293.

Example 8-1

NONREFUNDABLE INCOME TAX CREDIT

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Emergency supplies income tax credit. (a)
5 There shall be allowed to each taxpayer subject to the tax
6 imposed under this chapter, an emergency supplies income tax
7 credit that shall be deductible from the taxpayer's net income
8 tax liability, if any, imposed by this chapter for the taxable
9 year in which the credit is properly claimed.

10 (b) The emergency supplies income tax credit shall be
11 equal to the qualified expenses of the taxpayer, up to a maximum
12 of \$1,000.

13 (c) The total amount of tax credits allowed under this
14 section shall not exceed \$1,000,000 for all taxpayers in any
15 taxable year; provided that any taxpayer who is not eligible to
16 claim the credit in a taxable year due to the \$1,000,000 cap

1 having been exceeded for that taxable year shall be eligible to
2 claim the credit in the subsequent taxable year.

3 (d) The director of taxation:

4 (1) Shall prepare any forms that may be necessary to claim
5 a tax credit under this section;

6 (2) May require the taxpayer to furnish reasonable
7 information to ascertain the validity of the claim for
8 the tax credit made under this section; and

9 (3) May adopt rules under chapter 91 necessary to
10 effectuate the purposes of this section.

11 (e) If the tax credit under this section exceeds the
12 taxpayer's income tax liability, the excess of the credit over
13 liability may be used as a credit against the taxpayer's income
14 tax liability in subsequent years until exhausted. All claims
15 for the tax credit under this section, including amended claims,
16 shall be filed on or before the end of the twelfth month
17 following the close of the taxable year for which the credit may
18 be claimed. Failure to comply with the foregoing provision shall
19 constitute a waiver of the right to claim the credit.

20 (f) As used in this section, "qualified expenses" means
21 costs that are directly incurred by the taxpayer to purchase and
22 maintain a seven-day supply of nonperishable food, water, and
23 other necessary supplies for use by the taxpayer and the
24 taxpayer's family in times of emergency or natural disaster."

1 SECTION 2. New statutory material is underscored.

2 SECTION 3. This Act, upon its approval, shall apply to
3 taxable years beginning after December 31, 2021.

4

INTRODUCED BY: _____

Example 8-2

REFUNDABLE INCOME TAX CREDIT

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Advance health-care directive tax credit. (a)

5 There shall be allowed to each taxpayer subject to the tax
6 imposed under this chapter, an advance health-care directive tax
7 credit that shall be applied against the taxpayer's net income
8 tax liability, if any, imposed by this chapter for the taxable
9 year in which the credit is properly claimed.

10 (b) The advance health-care directive tax credit shall be
11 equal to per cent of the qualified expenses of the
12 taxpayer or \$, whichever is less.

13 (c) The director of taxation:

14 (1) Shall prepare any forms that may be necessary to claim
15 a tax credit under this section;

1 (2) May require the taxpayer to furnish reasonable
2 information to ascertain the validity of the claim for
3 the tax credit made under this section; and

4 (3) May adopt rules under chapter 91 necessary to
5 effectuate the purposes of this section.

6 (d) If the tax credit claimed by the taxpayer under this
7 section exceeds the amount of the income tax payments due from
8 the taxpayer, the excess of credit over payments due shall be
9 refunded to the taxpayer; provided that the tax credit properly
10 claimed by a taxpayer who has no income tax liability shall be
11 paid to the taxpayer; and provided further that no refunds or
12 payments on account of the tax credit allowed by this section
13 shall be made for amounts less than \$1. All claims for the tax
14 credit under this section, including amended claims, shall be
15 filed on or before the end of the twelfth month following the
16 close of the taxable year for which the credit may be claimed.
17 Failure to comply with the foregoing provision shall constitute a
18 waiver of the right to claim the credit.

19 (e) For the purposes of this section:

20 "Advance health-care directive" means the same as defined
21 in section 327E-2 and includes an advance mental health-care
22 directive as defined in section 327G-2 and a provider order for
23 life-sustaining treatment form as defined in section 327K-1.

1 "Qualified expenses" means legal fees incurred for the
2 purpose of establishing an advance health-care directive. This
3 does not include legal fees incurred for the purpose of amending
4 or replacing an existing advance health-care directive."

5 SECTION 2. New statutory material is underscored.

6 SECTION 3. This Act, upon its approval, shall apply to
7 taxable years beginning after December 31, 2021.

8

INTRODUCED BY: _____

Example 8-3

TAX CREDIT CLAIM LIMITATION

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 235, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§235- Credits against income; claim limitation. (a)
5 Notwithstanding any law to the contrary, and as otherwise
6 provided in this section, any tax credit that may be claimed
7 against a taxpayer's net income tax liability under this chapter,
8 or chapter 239, 241, or 431, for taxable years beginning on or
9 after January 1, 2022, and ending before January 1, 2027, no
10 claim for business credit, including carryover business credit
11 from prior taxable years, shall exceed eighty per cent of a
12 taxpayer's tax liability for the taxable year in which the credit
13 is claimed.

14 (b) As used in this section, "business credit" means all
15 tax credits allowable under this chapter, chapter 239, 241, or
16 431, except for the following tax credits:

- 1 (1) Section 235-15 (relating to a tax credit for child
2 passenger restraint systems);
- 3 (2) Section 235-55 (relating to a tax credit for resident
4 taxpayers);
- 5 (3) Section 235-55.6 (relating to a tax credit for
6 household and dependent care services);
- 7 (4) Section 235-55.7 (relating to a tax credit for low-
8 income household renters);
- 9 (5) Section 235-55.85 (relating to the refundable
10 food/excise tax credit);
- 11 (6) Section 239-6.5 (relating to a tax credit for lifeline
12 telephone service subsidy);
- 13 (7) Any credit against any tax required by the
14 Constitution or laws of the United States; and
- 15 (8) The tax credit under section 235-12.5 for a renewable
16 energy technology system installed in a single-family
17 residential property. For this paragraph, the tax
18 credit for a renewable energy technology system
19 installed in a multi-family residential property or
20 commercial property shall be deemed a "business
21 credit".
- 22 (c) Any business credit generated from January 1, 2022, to
23 December 31, 2027, shall be subject to the credit claim
24 limitation provided in subsection (a).

1 Any such business credit that is unclaimed during that
2 period because of the credit claim limitation of subsection (a)
3 may be used against a taxpayer's tax liability in the taxable
4 years beginning on or after January 1, 2027, until exhausted.

5 (d) Any business credit generated and applicable to a
6 taxable year beginning before January 1, 2022, that resulted in a
7 credit carryover, shall be subject to the limitation on credit
8 claims provided in subsection (a); provided that, notwithstanding
9 any provision creating a waiver of a tax credit by failing to
10 make a claim within a specified period of time for any business
11 tax credit, any business tax credit carryover generated and
12 applicable to a taxable year beginning before January 1, 2022,
13 may be used against a taxpayer's tax liability in the taxable
14 years beginning on or after January 1, 2027, until exhausted.

15 (e) In determining the priority for credit claims made
16 pursuant to this section, credits generated during taxable years
17 beginning on or after January 1, 2022, and ending before
18 January 1, 2027, shall be claimed first, and credits generated in
19 taxable years beginning prior to January 1, 2022, shall be
20 claimed thereafter; provided that, with regard to any business
21 tax credit properly claimed for a taxable year beginning before
22 January 1, 2022, the specified period of time established to
23 exhaust that business tax credit shall be tolled until such time
24 that business tax credits accrued for the period beginning

1 January 1, 2022, and ending before January 1, 2027, have been
2 exhausted.

3 (f) This section shall apply to taxable years beginning on
4 or after January 1, 2022, and shall not apply to taxable years
5 beginning on or after January 1, 2027."

6 SECTION 2. New statutory material is underscored.

7 SECTION 3. This Act shall take effect on July 1, 2022.

8

INTRODUCED BY: _____

Example 8-4

GENERAL EXCISE TAX EXEMPTION

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Chapter 237, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§237- Exemption of over-the-counter nonprescription
5 medications. (a) There shall be exempted from, and excluded
6 from the measure of, the taxes imposed by this chapter all of the
7 gross proceeds or income arising from the sale of over-the-
8 counter nonprescription medications.

9 (b) For purposes of this section, "over-the-counter
10 nonprescription medications" means drugs or medications that can
11 be purchased without a prescription (for example, aspirin, cough
12 syrup, and laxatives)."

13 SECTION 2. New statutory material is underscored.

14 SECTION 3. This Act shall take effect on July 1, 2022.

15

INTRODUCED BY: _____

Example 8-5

INCOME TAX RATES

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 235-51, Hawaii Revised Statutes, is
2 amended by amending subsections (a), (b), and (c) to read as
3 follows:

4 "(a) There is hereby imposed on the taxable income of
5 every:

6 (1) Taxpayer who files a joint return under section
7 235-93; and

8 (2) Surviving spouse,

9 a tax determined in accordance with the following table:

10 ~~[In the case of any taxable year beginning after~~

11 ~~December 31, 2017:~~

12	If the taxable income is:	The tax shall be:
13	Not over \$4,800	1.40% of taxable income
14	Over \$4,800 but	\$67.00 plus 3.20% of
15	— not over \$9,600	excess over \$4,800
16	Over \$9,600 but	\$221.00 plus 5.50% of
17	— not over \$19,200	excess over \$9,600

H.B. NO.

1	Over \$19,200 but	\$749.00 plus 6.40% of
2	— not over \$28,800	excess over \$19,200
3	Over \$28,800 but	\$1,363.00 plus 6.80% of
4	— not over \$38,400	excess over \$28,800
5	Over \$38,400 but	\$2,016.00 plus 7.20% of
6	— not over \$48,000	excess over \$38,400
7	Over \$48,000 but	\$2,707.00 plus 7.60% of
8	— not over \$72,000	excess over \$48,000
9	Over \$72,000 but	\$4,531.00 plus 7.90% of
10	— not over \$96,000	excess over \$72,000
11	Over \$96,000 but	\$6,427.00 plus 8.25% of
12	— not over \$300,000	excess over \$96,000
13	Over \$300,000 but	\$23,257.00 plus 9.00% of
14	— not over \$350,000	excess over \$300,000
15	Over \$350,000 but	\$27,757.00 plus 10.00% of
16	— not over \$400,000	excess over \$350,000
17	Over \$400,000	\$32,757.00 plus 11.00% of
18		excess over \$400,000.]

19 In the case of any taxable year beginning after

20 December 31, 2021:

21	<u>If the taxable income is:</u>	<u>The tax shall be:</u>
22	<u>Not over \$4,800</u>	<u>1.40% of taxable income</u>
23	<u>Over \$4,800 but</u>	<u>\$67.00 plus 3.20% of</u>
24	<u>not over \$9,600</u>	<u>excess over \$4,800</u>

H.B. NO.

1	<u>Over \$9,600 but</u>	<u>\$221.00 plus 5.50% of</u>
2	<u>not over \$19,200</u>	<u>excess over \$9,600</u>
3	<u>Over \$19,200 but</u>	<u>\$749.00 plus 6.40% of</u>
4	<u>not over \$28,800</u>	<u>excess over \$19,200</u>
5	<u>Over \$28,800 but</u>	<u>\$1,363.00 plus 6.80% of</u>
6	<u>not over \$38,400</u>	<u>excess over \$28,800</u>
7	<u>Over \$38,400 but</u>	<u>\$2,016.00 plus 7.20% of</u>
8	<u>not over \$48,000</u>	<u>excess over \$38,400</u>
9	<u>Over \$48,000 but</u>	<u>\$2,707.00 plus 7.60% of</u>
10	<u>not over \$72,000</u>	<u>excess over \$48,000</u>
11	<u>Over \$72,000 but</u>	<u>\$4,531.00 plus 7.90% of</u>
12	<u>not over \$96,000</u>	<u>excess over \$72,000</u>
13	<u>Over \$96,000 but</u>	<u>\$6,427.00 plus 8.25% of</u>
14	<u>not over \$200,000</u>	<u>excess over \$96,000</u>
15	<u>Over \$200,000 but</u>	<u>\$15,007.00 plus 9.00% of</u>
16	<u>not over \$300,000</u>	<u>excess over \$200,000</u>
17	<u>Over \$300,000 but</u>	<u>\$24,007.00 plus 10.00% of</u>
18	<u>not over \$400,000</u>	<u>excess over \$300,000</u>
19	<u>Over \$400,000 but</u>	<u>\$34,007.00 plus 11.00% of</u>
20	<u>not over \$500,000</u>	<u>excess over \$400,000</u>
21	<u>Over \$500,000 but</u>	<u>\$45,007.00 plus 12.00% of</u>
22	<u>not over \$600,000</u>	<u>excess over \$500,000</u>
23	<u>Over \$600,000</u>	<u>\$57,007.00 plus 13.00% of</u>
24		<u>excess over \$600,000.</u>

H.B. NO.

1 (b) There is hereby imposed on the taxable income of every
 2 head of a household a tax determined in accordance with the
 3 following table:

4 ~~[In the case of any taxable year beginning after~~
 5 ~~December 31, 2017:~~

6	If the taxable income is:	The tax shall be:
7	Not over \$3,600	1.40% of taxable income
8	Over \$3,600 but	\$50.00 plus 3.20% of
9	not over \$7,200	excess over \$3,600
10	Over \$7,200 but	\$166.00 plus 5.50% of
11	not over \$14,400	excess over \$7,200
12	Over \$14,400 but	\$562.00 plus 6.40% of
13	not over \$21,600	excess over \$14,400
14	Over \$21,600 but	\$1,022.00 plus 6.80% of
15	not over \$28,800	excess over \$21,600
16	Over \$28,800 but	\$1,512.00 plus 7.20% of
17	not over \$36,000	excess over \$28,800
18	Over \$36,000 but	\$2,030.00 plus 7.60% of
19	not over \$54,000	excess over \$36,000
20	Over \$54,000 but	\$3,398.00 plus 7.90% of
21	not over \$72,000	excess over \$54,000
22	Over \$72,000 but	\$4,820.00 plus 8.25% of
23	not over \$225,000	excess over \$72,000
24	Over \$225,000 but	\$17,443.00 plus 9.00% of

H.B. NO.

1 ~~not over \$262,500~~ ~~excess over \$225,000~~
 2 ~~Over \$262,500 but~~ ~~\$20,818.00 plus 10.00% of~~
 3 ~~not over \$300,000~~ ~~excess over \$262,500~~
 4 ~~Over \$300,000~~ ~~\$24,568.00 plus 11.00% of~~
 5 ~~excess over \$300,000.]~~

6 In the case of any taxable year beginning after
 7 December 31, 2021:

<u>8</u>	<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>9</u>	<u>Not over \$3,600</u>	<u>1.40% of taxable income</u>
<u>10</u>	<u>Over \$3,600 but</u>	<u>\$50.00 plus 3.20% of</u>
<u>11</u>	<u>not over \$7,200</u>	<u>excess over \$3,600</u>
<u>12</u>	<u>Over \$7,200 but</u>	<u>\$166.00 plus 5.50% of</u>
<u>13</u>	<u>not over \$14,400</u>	<u>excess over \$7,200</u>
<u>14</u>	<u>Over \$14,400 but</u>	<u>\$562.00 plus 6.40% of</u>
<u>15</u>	<u>not over \$21,600</u>	<u>excess over \$14,400</u>
<u>16</u>	<u>Over \$21,600 but</u>	<u>\$1,022.00 plus 6.80% of</u>
<u>17</u>	<u>not over \$28,800</u>	<u>excess over \$21,600</u>
<u>18</u>	<u>Over \$28,800 but</u>	<u>\$1,512.00 plus 7.20% of</u>
<u>19</u>	<u>not over \$36,000</u>	<u>excess over \$28,800</u>
<u>20</u>	<u>Over \$36,000 but</u>	<u>\$2,030.00 plus 7.60% of</u>
<u>21</u>	<u>not over \$54,000</u>	<u>excess over \$36,000</u>
<u>22</u>	<u>Over \$54,000 but</u>	<u>\$3,398.00 plus 7.90% of</u>
<u>23</u>	<u>not over \$72,000</u>	<u>excess over \$54,000</u>

H.B. NO.

1	<u>Over \$72,000 but</u>	<u>\$4,820.00 plus 8.25% of</u>
2	<u>not over \$150,000</u>	<u>excess over \$72,000</u>
3	<u>Over \$150,000 but</u>	<u>\$11,255.00 plus 9.00% of</u>
4	<u>not over \$225,000</u>	<u>excess over \$150,000</u>
5	<u>Over \$225,000 but</u>	<u>\$18,005.00 plus 10.00% of</u>
6	<u>not over \$300,000</u>	<u>excess over \$225,000</u>
7	<u>Over \$300,000 but</u>	<u>\$25,505.00 plus 11.00% of</u>
8	<u>not over \$375,000</u>	<u>excess over \$300,000</u>
9	<u>Over \$375,000 but</u>	<u>\$33,755.00 plus 12.00% of</u>
10	<u>not over \$450,000</u>	<u>excess over \$375,000</u>
11	<u>Over \$450,000</u>	<u>\$42,755.00 plus 13.00% of</u>
12		<u>excess over \$450,000.</u>

13 (c) There is hereby imposed on the taxable income of (1)
 14 every unmarried individual (other than a surviving spouse, or the
 15 head of a household) and (2) on the taxable income of every
 16 married individual who does not make a single return jointly with
 17 the individual's spouse under section 235-93 a tax determined in
 18 accordance with the following table:

19 ~~[In the case of any taxable year beginning after~~
 20 ~~December 31, 2017:~~

21	If the taxable income is:	The tax shall be:
22	Not over \$2,400	1.40% of taxable income
23	Over \$2,400 but	\$34.00 plus 3.20% of
24	not over \$4,800	excess over \$2,400

H.B. NO.

1	Over \$4,800 but	\$110.00 plus 5.50% of
2	not over \$9,600	excess over \$4,800
3	Over \$9,600 but	\$374.00 plus 6.40% of
4	not over \$14,400	excess over \$9,600
5	Over \$14,400 but	\$682.00 plus 6.80% of
6	not over \$19,200	excess over \$14,400
7	Over \$19,200 but	\$1,008.00 plus 7.20% of
8	not over \$24,000	excess over \$19,200
9	Over \$24,000 but	\$1,354.00 plus 7.60% of
10	not over \$36,000	excess over \$24,000
11	Over \$36,000 but	\$2,266.00 plus 7.90% of
12	not over \$48,000	excess over \$36,000
13	Over \$48,000 but	\$3,214.00 plus 8.25% of
14	not over \$150,000	excess over \$48,000
15	Over \$150,000 but	\$11,629.00 plus 9.00% of
16	not over \$175,000	excess over \$150,000
17	Over \$175,000 but	\$13,879.00 plus 10.00% of
18	not over \$200,000	excess over \$175,000
19	Over \$200,000	\$16,379.00 plus 11.00% of
20		excess over \$200,000.]

21 In the case of any taxable year beginning after

22 December 31, 2021:

23	<u>If the taxable income is:</u>	<u>The tax shall be:</u>
24	<u>Not over \$2,400</u>	<u>1.40% of taxable income</u>

H.B. NO.

1	<u>Over \$2,400 but</u>	<u>\$34.00 plus 3.20% of</u>
2	<u>not over \$4,800</u>	<u>excess over \$2,400</u>
3	<u>Over \$4,800 but</u>	<u>\$110.00 plus 5.50% of</u>
4	<u>not over \$9,600</u>	<u>excess over \$4,800</u>
5	<u>Over \$9,600 but</u>	<u>\$374.00 plus 6.40% of</u>
6	<u>not over \$14,400</u>	<u>excess over \$9,600</u>
7	<u>Over \$14,400 but</u>	<u>\$682.00 plus 6.80% of</u>
8	<u>not over \$19,200</u>	<u>excess over \$14,400</u>
9	<u>Over \$19,200 but</u>	<u>\$1,008.00 plus 7.20% of</u>
10	<u>not over \$24,000</u>	<u>excess over \$19,200</u>
11	<u>Over \$24,000 but</u>	<u>\$1,354.00 plus 7.60% of</u>
12	<u>not over \$36,000</u>	<u>excess over \$24,000</u>
13	<u>Over \$36,000 but</u>	<u>\$2,266.00 plus 7.90% of</u>
14	<u>not over \$48,000</u>	<u>excess over \$36,000</u>
15	<u>Over \$48,000 but</u>	<u>\$3,214.00 plus 8.25% of</u>
16	<u>not over \$100,000</u>	<u>excess over \$48,000</u>
17	<u>Over \$100,000 but</u>	<u>\$7,504.00 plus 9.00% of</u>
18	<u>not over \$150,000</u>	<u>excess over \$100,000</u>
19	<u>Over \$150,000 but</u>	<u>\$12,004.00 plus 10.00% of</u>
20	<u>not over \$200,000</u>	<u>excess over \$150,000</u>
21	<u>Over \$200,000 but</u>	<u>\$17,004.00 plus 11.00% of</u>
22	<u>not over \$250,000</u>	<u>excess over \$200,000</u>
23	<u>Over \$250,000 but</u>	<u>\$22,504.00 plus 12.00% of</u>
24	<u>not over \$300,000</u>	<u>excess over \$250,000</u>

Example 8-6

GENERAL EXCISE AND USE TAX RATES

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 PART I

2 SECTION 1. Section 237-13, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "**§237-13 Imposition of tax.** There is hereby levied and
5 shall be assessed and collected annually privilege taxes against
6 persons on account of their business and other activities in the
7 State measured by the application of rates against values of
8 products, gross proceeds of sales, or gross income, whichever is
9 specified, as follows:

10 (1) Tax on manufacturers.

11 (A) Upon every person engaging or continuing within
12 the State in the business of manufacturing,
13 including compounding, canning, preserving,
14 packing, printing, publishing, milling,
15 processing, refining, or preparing for sale,
16 profit, or commercial use, either directly or
17 through the activity of others, in whole or in

1 part, any article or articles, substance or
2 substances, commodity or commodities, the amount
3 of the tax to be equal to the value of the
4 articles, substances, or commodities,
5 manufactured, compounded, canned, preserved,
6 packed, printed, milled, processed, refined, or
7 prepared for sale, as shown by the gross proceeds
8 derived from the sale thereof by the manufacturer
9 or person compounding, preparing, or printing
10 them, multiplied by one-half of one per cent.

11 (B) The measure of the tax on manufacturers is the
12 value of the entire product for sale.

13 (2) Tax on business of selling tangible personal property;
14 producing.

15 (A) Upon every person engaging or continuing in the
16 business of selling any tangible personal
17 property whatsoever, there is likewise hereby
18 levied, and shall be assessed and collected, a
19 tax equivalent to [~~four~~] 4.5 per cent of the
20 gross proceeds of sales of the business; provided
21 that, in the case of a wholesaler, the tax shall
22 be equal to one-half of one per cent of the gross
23 proceeds of sales of the business; and provided
24 further that insofar as the sale of tangible

1 personal property is a wholesale sale under
2 section 237-4(a)(8), the tax shall be one-half of
3 one per cent of the gross proceeds. Upon every
4 person engaging or continuing within this State
5 in the business of a producer, the tax shall be
6 equal to one-half of one per cent of the gross
7 proceeds of sales of the business, or the value
8 of the products, for sale.

9 (B) Gross proceeds of sales of tangible property in
10 interstate and foreign commerce shall constitute
11 a part of the measure of the tax imposed on
12 persons in the business of selling tangible
13 personal property, to the extent, under the
14 conditions, and in accordance with the provisions
15 of the Constitution of the United States and the
16 Acts of the Congress of the United States which
17 may be now in force or may be hereafter adopted,
18 and whenever there occurs in the State an
19 activity to which, under the Constitution and
20 Acts of Congress, there may be attributed gross
21 proceeds of sales, the gross proceeds shall be so
22 attributed.

23 (C) No manufacturer or producer, engaged in such
24 business in the State and selling the

1 manufacturer's or producer's products for
2 delivery outside of the State (for example,
3 consigned to a mainland purchaser via common
4 carrier f.o.b. Honolulu), shall be required to
5 pay the tax imposed in this chapter for the
6 privilege of so selling the products, and the
7 value or gross proceeds of sales of the products
8 shall be included only in determining the measure
9 of the tax imposed upon the manufacturer or
10 producer.

11 (D) A manufacturer or producer, engaged in such
12 business in the State, shall pay the tax imposed
13 in this chapter for the privilege of selling its
14 products in the State, and the value or gross
15 proceeds of sales of the products, thus subjected
16 to tax, may be deducted insofar as duplicated as
17 to the same products by the measure of the tax
18 upon the manufacturer or producer for the
19 privilege of manufacturing or producing in the
20 State; provided that no producer of agricultural
21 products who sells the products to a purchaser
22 who will process the products outside the State
23 shall be required to pay the tax imposed in this

1 chapter for the privilege of producing or selling
2 those products.

3 (E) A taxpayer selling to a federal cost-plus
4 contractor may make the election provided for by
5 paragraph (3) (C), and in that case the tax shall
6 be computed pursuant to the election,
7 notwithstanding this paragraph or paragraph (1)
8 to the contrary.

9 (F) The department, by rule, may require that a
10 seller take from the purchaser of tangible
11 personal property a certificate, in a form
12 prescribed by the department, certifying that the
13 sale is a sale at wholesale; provided that:

14 (i) Any purchaser who furnishes a certificate
15 shall be obligated to pay to the seller,
16 upon demand, the amount of the additional
17 tax that is imposed upon the seller
18 whenever the sale in fact is not at
19 wholesale; and

20 (ii) The absence of a certificate in itself
21 shall give rise to the presumption that the
22 sale is not at wholesale unless the sales
23 of the business are exclusively at
24 wholesale.

- 1 (3) Tax upon contractors.
- 2 (A) Upon every person engaging or continuing within
- 3 the State in the business of contracting, the tax
- 4 shall be equal to [~~four~~] 4.5 per cent of the
- 5 gross income of the business.
- 6 (B) In computing the tax levied under this paragraph,
- 7 there shall be deducted from the gross income of
- 8 the taxpayer so much thereof as has been included
- 9 in the measure of the tax levied under
- 10 subparagraph (A), on another taxpayer who is a
- 11 contractor, as defined in section 237-6; provided
- 12 that any person claiming a deduction under this
- 13 paragraph shall be required to show in the
- 14 person's return the name and general excise
- 15 number of the person paying the tax on the amount
- 16 deducted by the person.
- 17 (C) In computing the tax levied under this paragraph
- 18 against any federal cost-plus contractor, there
- 19 shall be excluded from the gross income of the
- 20 contractor so much thereof as fulfills the
- 21 following requirements:
- 22 (i) The gross income exempted shall constitute
- 23 reimbursement of costs incurred for
- 24 materials, plant, or equipment purchased

1 from a taxpayer licensed under this
2 chapter, not exceeding the gross proceeds
3 of sale of the taxpayer on account of the
4 transaction; and

5 (ii) The taxpayer making the sale shall have
6 certified to the department that the
7 taxpayer is taxable with respect to the
8 gross proceeds of the sale, and that the
9 taxpayer elects to have the tax on gross
10 income computed the same as upon a sale to
11 the state government.

12 (D) A person who, as a business or as a part of a
13 business in which the person is engaged, erects,
14 constructs, or improves any building or
15 structure, of any kind or description, or makes,
16 constructs, or improves any road, street,
17 sidewalk, sewer, or water system, or other
18 improvements on land held by the person (whether
19 held as a leasehold, fee simple, or otherwise),
20 upon the sale or other disposition of the land or
21 improvements, even if the work was not done
22 pursuant to a contract, shall be liable to the
23 same tax as if engaged in the business of
24 contracting, unless the person shows that at the

1 time the person was engaged in making the
2 improvements the person intended, and for the
3 period of at least one year after completion of
4 the building, structure, or other improvements
5 the person continued to intend to hold and not
6 sell or otherwise dispose of the land or
7 improvements. The tax in respect of the
8 improvements shall be measured by the amount of
9 the proceeds of the sale or other disposition
10 that is attributable to the erection,
11 construction, or improvement of such building or
12 structure, or the making, constructing, or
13 improving of the road, street, sidewalk, sewer,
14 or water system, or other improvements. The
15 measure of tax in respect of the improvements
16 shall not exceed the amount which would have been
17 taxable had the work been performed by another,
18 subject as in other cases to the deductions
19 allowed by subparagraph (B). Upon the election
20 of the taxpayer, this paragraph may be applied
21 notwithstanding that the improvements were not
22 made by the taxpayer, or were not made as a
23 business or as a part of a business, or were made
24 with the intention of holding the same. However,

1 this paragraph shall not apply in respect of any
2 proceeds that constitute or are in the nature of
3 rent, which shall be taxable under paragraph (9);
4 provided that insofar as the business of renting
5 or leasing real property under a lease is taxed
6 under section 237-16.5, the tax shall be levied
7 by section 237-16.5.

8 (4) Tax upon theaters, amusements, radio broadcasting
9 stations, etc.

10 (A) Upon every person engaging or continuing within
11 the State in the business of operating a theater,
12 opera house, moving picture show, vaudeville,
13 amusement park, dance hall, skating rink, radio
14 broadcasting station, or any other place at which
15 amusements are offered to the public, the tax
16 shall be equal to [~~four~~] 4.5 per cent of the
17 gross income of the business, and in the case of
18 a sale of an amusement at wholesale under section
19 237-4(a) (13), the tax shall be one-half of one
20 per cent of the gross income.

21 (B) The department may require that the person
22 rendering an amusement at wholesale take from the
23 licensed seller a certificate, in a form

1 prescribed by the department, certifying that the
2 sale is a sale at wholesale; provided that:

3 (i) Any licensed seller who furnishes a
4 certificate shall be obligated to pay to
5 the person rendering the amusement, upon
6 demand, the amount of additional tax that
7 is imposed upon the seller whenever the
8 sale is not at wholesale; and

9 (ii) The absence of a certificate in itself
10 shall give rise to the presumption that the
11 sale is not at wholesale unless the person
12 rendering the sale is exclusively rendering
13 the amusement at wholesale.

14 (5) Tax upon sales representatives, etc. Upon every
15 person classified as a representative or purchasing
16 agent under section 237-1, engaging or continuing
17 within the State in the business of performing
18 services for another, other than as an employee, there
19 is likewise hereby levied and shall be assessed and
20 collected a tax equal to [~~four~~] 4.5 per cent of the
21 commissions and other compensation attributable to the
22 services so rendered by the person.

23 (6) Tax on service business.

- 1 (A) Upon every person engaging or continuing within
2 the State in any service business or calling
3 including professional services not otherwise
4 specifically taxed under this chapter, there is
5 likewise hereby levied and shall be assessed and
6 collected a tax equal to [~~four~~] 4.5 per cent of
7 the gross income of the business, and in the case
8 of a wholesaler under section 237-4(a)(10), the
9 tax shall be equal to one-half of one per cent of
10 the gross income of the business.
- 11 (B) The department may require that the person
12 rendering a service at wholesale take from the
13 licensed seller a certificate, in a form
14 prescribed by the department, certifying that the
15 sale is a sale at wholesale; provided that:
- 16 (i) Any licensed seller who furnishes a
17 certificate shall be obligated to pay to
18 the person rendering the service, upon
19 demand, the amount of additional tax that
20 is imposed upon the seller whenever the
21 sale is not at wholesale; and
- 22 (ii) The absence of a certificate in itself
23 shall give rise to the presumption that the
24 sale is not at wholesale unless the person

1 rendering the sale is exclusively rendering
2 services at wholesale.

3 (C) Where any person is engaged in the business of
4 selling interstate or foreign common carrier
5 telecommunication services within and without the
6 State, other than as a home service provider, the
7 tax shall be imposed on that portion of gross
8 income received by a person from service which is
9 originated or terminated in this State and is
10 charged to a telephone number, customer, or
11 account in this State notwithstanding any other
12 state law (except for the exemption under section
13 237-23(a)(1)) to the contrary. If, under the
14 Constitution and laws of the United States, the
15 entire gross income as determined under this
16 paragraph of a business selling interstate or
17 foreign common carrier telecommunication services
18 cannot be included in the measure of the tax, the
19 gross income shall be apportioned as provided in
20 section 237-21; provided that the apportionment
21 factor and formula shall be the same for all
22 persons providing those services in the State.

23 (D) Where any person is engaged in the business of a
24 home service provider, the tax shall be imposed

1 on the gross income received or derived from
2 providing interstate or foreign mobile
3 telecommunications services to a customer with a
4 place of primary use in this State when the
5 services originate in one state and terminate in
6 another state, territory, or foreign country;
7 provided that all charges for mobile
8 telecommunications services which are billed by
9 or for the home service provider are deemed to be
10 provided by the home service provider at the
11 customer's place of primary use, regardless of
12 where the mobile telecommunications originate,
13 terminate, or pass through; provided further that
14 the income from charges specifically derived from
15 interstate or foreign mobile telecommunications
16 services, as determined by books and records that
17 are kept in the regular course of business by the
18 home service provider in accordance with section
19 239-24, shall be apportioned under any
20 apportionment factor or formula adopted under
21 subparagraph (C). Gross income shall not
22 include:
23 (i) Gross receipts from mobile
24 telecommunications services provided to a

1 customer with a place of primary use
2 outside this State;

3 (ii) Gross receipts from mobile
4 telecommunications services that are
5 subject to the tax imposed by chapter 239;

6 (iii) Gross receipts from mobile
7 telecommunications services taxed under
8 section 237-13.8; and

9 (iv) Gross receipts of a home service provider
10 acting as a serving carrier providing
11 mobile telecommunications services to
12 another home service provider's customer.

13 For the purposes of this paragraph, "charges for
14 mobile telecommunications services", "customer",
15 "home service provider", "mobile
16 telecommunications services", "place of primary
17 use", and "serving carrier" have the same meaning
18 as in section 239-22.

19 (7) Tax on insurance producers. Upon every person engaged
20 as a licensed producer pursuant to chapter 431, there
21 is hereby levied and shall be assessed and collected a
22 tax equal to 0.15 per cent of the commissions due to
23 that activity.

- 1 (8) Tax on receipts of sugar benefit payments. Upon the
2 amounts received from the United States government by
3 any producer of sugar (or the producer's legal
4 representative or heirs), as defined under and by
5 virtue of the Sugar Act of 1948, as amended, or other
6 Acts of the Congress of the United States relating
7 thereto, there is hereby levied a tax of one-half of
8 one per cent of the gross amount received; provided
9 that the tax levied hereunder on any amount so
10 received and actually disbursed to another by a
11 producer in the form of a benefit payment shall be
12 paid by the person or persons to whom the amount is
13 actually disbursed, and the producer actually making a
14 benefit payment to another shall be entitled to claim
15 on the producer's return a deduction from the gross
16 amount taxable hereunder in the sum of the amount so
17 disbursed. The amounts taxed under this paragraph
18 shall not be taxable under any other paragraph,
19 subsection, or section of this chapter.
- 20 (9) Tax on other business. Upon every person engaging or
21 continuing within the State in any business, trade,
22 activity, occupation, or calling not included in the
23 preceding paragraphs or any other provisions of this
24 chapter, there is likewise hereby levied and shall be

1 assessed and collected, a tax equal to [~~four~~] 4.5 per
2 cent of the gross income thereof. In addition, the
3 rate prescribed by this paragraph shall apply to a
4 business taxable under one or more of the preceding
5 paragraphs or other provisions of this chapter, as to
6 any gross income thereof not taxed thereunder as gross
7 income or gross proceeds of sales or by taxing an
8 equivalent value of products, unless specifically
9 exempted."

10 SECTION 2. Section 237-15, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§237-15 Technicians.** When technicians supply dentists or
13 physicians with dentures, orthodontic devices, braces, and
14 similar items which have been prepared by the technician in
15 accordance with specifications furnished by the dentist or
16 physician, and such items are to be used by the dentist or
17 physician in the dentist's or physician's professional practice
18 for a particular patient who is to pay the dentist or physician
19 for the same as a part of the dentist's or physician's
20 professional services, the technician shall be taxed as though
21 the technician were a manufacturer selling a product to a
22 licensed retailer, rather than at the rate of [~~four~~] 4.5 per cent
23 which is generally applied to professions and services."

1 SECTION 3. Section 237-16.5, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) This section relates to the leasing of real property
5 by a lessor to a lessee. There is hereby levied, and shall be
6 assessed and collected annually, a privilege tax against persons
7 engaging or continuing within the State in the business of
8 leasing real property to another, equal to [~~four~~] 4.5 per cent of
9 the gross proceeds or gross income received or derived from the
10 leasing; provided that where real property is subleased by a
11 lessee to a sublessee, the lessee, as provided in this section,
12 shall be allowed a deduction from the amount of gross proceeds or
13 gross income received from its sublease of the real property.
14 The deduction shall be in the amount allowed under this section.

15 All deductions under this section and the name and general
16 excise tax number of the lessee's lessor shall be reported on the
17 general excise tax return. Any deduction allowed under this
18 section shall only be allowed with respect to leases and
19 subleases in writing and relating to the same real property."

20 2. By amending subsection (f) to read:

21 "(f) This section shall not cause the tax upon a lessor,
22 with respect to any item of the lessor's gross proceeds or gross
23 income, to exceed [~~four~~] 4.5 per cent."

1 SECTION 4. Section 237-18, Hawaii Revised Statutes, is
2 amended by amending subsection (f) to read as follows:

3 "(f) Where tourism related services are furnished through
4 arrangements made by a travel agency or tour packager and the
5 gross income is divided between the provider of the services and
6 the travel agency or tour packager, the tax imposed by this
7 chapter shall apply to each such person with respect to such
8 person's respective portion of the proceeds, and no more.

9 As used in this subsection "tourism related services" means
10 catamaran cruises, canoe rides, dinner cruises, lei greetings,
11 transportation included in a tour package, sightseeing tours not
12 subject to chapter 239, admissions to luaus, dinner shows,
13 extravaganzas, cultural and educational facilities, and other
14 services rendered directly to the customer or tourist, but only
15 if the providers of the services other than air transportation
16 are subject to a [~~four~~ 4.5 per cent tax under this chapter or
17 chapter 239."

18 PART II

19 SECTION 5. Section 238-2, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§238-2 Imposition of tax on tangible personal property;**
22 **exemptions.** There is hereby levied an excise tax on the use in
23 this State of tangible personal property which is imported by a
24 taxpayer in this State whether owned, purchased from an

1 unlicensed seller, or however acquired for use in this State.
2 The tax imposed by this chapter shall accrue when the property is
3 acquired by the importer or purchaser and becomes subject to the
4 taxing jurisdiction of the State. The rates of the tax hereby
5 imposed and the exemptions thereof are as follows:

6 (1) If the importer or purchaser is licensed under chapter
7 237 and is:

8 (A) A wholesaler or jobber importing or purchasing
9 for purposes of sale or resale; or

10 (B) A manufacturer importing or purchasing material
11 or commodities which are to be incorporated by
12 the manufacturer into a finished or saleable
13 product (including the container or package in
14 which the product is contained) wherein it will
15 remain in such form as to be perceptible to the
16 senses, and which finished or saleable product is
17 to be sold in such manner as to result in a
18 further tax on the activity of the manufacturer
19 as the manufacturer or as a wholesaler, and not
20 as a retailer,

21 there shall be no tax; provided that if the
22 wholesaler, jobber, or manufacturer is also engaged in
23 business as a retailer (so classed under chapter 237),
24 paragraph (2) shall apply to the wholesaler, jobber,

1 or manufacturer, but the director of taxation shall
2 refund to the wholesaler, jobber, or manufacturer, in
3 the manner provided under section 231-23(c) such
4 amount of tax as the wholesaler, jobber, or
5 manufacturer shall, to the satisfaction of the
6 director, establish to have been paid by the
7 wholesaler, jobber, or manufacturer to the director
8 with respect to property which has been used by the
9 wholesaler, jobber, or manufacturer for the purposes
10 stated in this paragraph;

11 (2) If the importer or purchaser is licensed under chapter
12 237 and is:

13 (A) A retailer or other person importing or
14 purchasing for purposes of sale or resale, not
15 exempted by paragraph (1);

16 (B) A manufacturer importing or purchasing material
17 or commodities which are to be incorporated by
18 the manufacturer into a finished or saleable
19 product (including the container or package in
20 which the product is contained) wherein it will
21 remain in such form as to be perceptible to the
22 senses, and which finished or saleable product is
23 to be sold at retail in this State, in such
24 manner as to result in a further tax on the

- 1 activity of the manufacturer in selling such
2 products at retail;
- 3 (C) A contractor importing or purchasing material or
4 commodities which are to be incorporated by the
5 contractor into the finished work or project
6 required by the contract and which will remain in
7 such finished work or project in such form as to
8 be perceptible to the senses;
- 9 (D) A person engaged in a service business or calling
10 as defined in section 237-7, or a person
11 furnishing transient accommodations subject to
12 the tax imposed by section 237D-2, in which the
13 import or purchase of tangible personal property
14 would have qualified as a sale at wholesale as
15 defined in section 237-4(a)(8) had the seller of
16 the property been subject to the tax in chapter
17 237; or
- 18 (E) A publisher of magazines or similar printed
19 materials containing advertisements, when the
20 publisher is under contract with the advertisers
21 to distribute a minimum number of magazines or
22 similar printed materials to the public or
23 defined segment of the public, whether or not
24 there is a charge to the persons who actually

1 receive the magazines or similar printed
2 materials,
3 the tax shall be one-half of one per cent of the
4 purchase price of the property, if the purchase and
5 sale are consummated in Hawaii; or, if there is no
6 purchase price applicable thereto, or if the purchase
7 or sale is consummated outside of Hawaii, then
8 one-half of one per cent of the value of such
9 property; and

10 (3) In all other cases, [~~four~~] 4.5 per cent of the value
11 of the property.

12 For purposes of this section, tangible personal property is
13 property that is imported by the taxpayer for use in this State,
14 notwithstanding the fact that title to the property, or the risk
15 of loss to the property, passes to the purchaser of the property
16 at a location outside this State."

17 SECTION 6. Section 238-2.2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "~~+~~§238-2.2~~+~~ **Imposition of tax on intangible property.**

20 There is hereby levied an excise tax on the value of intangible
21 property acquired from an unlicensed seller and imported or used
22 in the State. The tax imposed by this chapter shall accrue when
23 the intangible property is acquired by the importer or purchaser
24 and becomes subject to the taxing jurisdiction of the State. The

1 rate of the tax hereby imposed shall be [~~four~~] 4.5 per cent of
2 the value of the intangible property."

3 SECTION 7. Section 238-2.3, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§238-2.3 Imposition of tax on imported services or**
6 **contracting; exemptions.** There is hereby levied an excise tax on
7 the value of services or contracting as defined in section 237-6
8 that are performed by an unlicensed seller at a point outside the
9 State and imported or purchased for use in this State. The tax
10 imposed by this chapter shall accrue when the service or
11 contracting as defined in section 237-6 is received by the
12 importer or purchaser and becomes subject to the taxing
13 jurisdiction of the State. The rates of the tax hereby imposed
14 and the exemptions from the tax are as follows:

15 (1) If the importer or purchaser is licensed under chapter
16 237 and is:

17 (A) Engaged in a service business or calling in which
18 the imported or purchased services or contracting
19 become identifiable elements, excluding overhead,
20 of the services rendered by the importer or
21 purchaser, and the gross income of the importer
22 or purchaser is subject to the tax imposed under
23 chapter 237 on services at the rate of one-half
24 of one per cent;

1 (B) A manufacturer importing or purchasing services
2 or contracting that become identifiable elements,
3 excluding overhead, of a finished or saleable
4 product (including the container or package in
5 which the product is contained) and the finished
6 or saleable product is to be sold in a manner
7 that results in a further tax on the manufacturer
8 as a wholesaler, and not a retailer; or

9 (C) A contractor importing or purchasing contracting
10 that become identifiable elements, excluding
11 overhead, of the finished work or project
12 required under the contract; provided that:

13 (i) The gross proceeds derived by the
14 contractor are subject to the tax under
15 section 237-13(3) as a contractor; and

16 (ii) The contractor could have deducted amounts
17 paid to the subcontractor under section
18 237-13(3) (B) if the subcontractor was
19 subject to general excise tax under chapter
20 237;

21 there shall be no tax imposed on the value of the
22 imported or purchased services or contracting;
23 provided that if the manufacturer is also engaged in
24 business as a retailer as classified under chapter

1 237, paragraph (2) shall apply to the manufacturer,
2 but the director of taxation shall refund to the
3 manufacturer, in the manner provided under section
4 231-23(c), that amount of tax that the manufacturer,
5 to the satisfaction of the director, shall establish
6 to have been paid by the manufacturer to the director
7 with respect to services that have been used by the
8 manufacturer for the purposes stated in this
9 paragraph.

10 (2) If the importer or purchaser is a person licensed
11 under chapter 237 and is:

12 (A) Engaged in a service business or calling in which
13 the imported or purchased services or contracting
14 become identifiable elements, excluding overhead,
15 of the services rendered by the importer or
16 purchaser, and the gross income from those
17 services when sold by the importer or purchaser
18 is subject to the tax imposed under chapter 237
19 at the highest rate;

20 (B) A manufacturer importing or purchasing services
21 or contracting that become identifiable elements,
22 excluding overhead, of the finished or saleable
23 manufactured product (including the container or
24 package in which the product is contained) and

Example 8-7

TRANSIENT ACCOMMODATIONS TAX RATES

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

- 1 SECTION 1. Section 237D-2, Hawaii Revised Statutes, is
2 amended as follows:
- 3 1. By amending subsection (a) to read:
- 4 "(a) There is levied and shall be assessed and collected
5 each month a tax of:
- 6 (1) Five per cent for the period beginning on January 1,
7 1987, to June 30, 1994;
- 8 (2) Six per cent for the period beginning on July 1, 1994,
9 to December 31, 1998;
- 10 (3) 7.25 per cent for the period beginning on January 1,
11 1999, to June 30, 2009;
- 12 (4) 8.25 per cent for the period beginning on July 1,
13 2009, to June 30, 2010; [~~and~~]
- 14 (5) 9.25 per cent for the period beginning on July 1,
15 2010, [~~and thereafter;~~] to June 30, 2022; and
- 16 (6) Six per cent for the period beginning on July 1, 2022,
17 and thereafter;

1 on the gross rental or gross rental proceeds derived from
2 furnishing transient accommodations."

3 2. By amending subsection (c) to read:

4 "(c) There is levied and shall be assessed and collected
5 each month, on the occupant of a resort time share vacation unit,
6 a transient accommodations tax of:

7 (1) 7.25 per cent on the fair market rental value until
8 December 31, 2015;

9 (2) 8.25 per cent on the fair market rental value for the
10 period beginning on January 1, 2016, to December 31,
11 2016; ~~and~~

12 (3) 9.25 per cent on the fair market rental value for the
13 period beginning on January 1, 2017, ~~and thereafter.~~
14 to June 30, 2022; and

15 (4) Six per cent on the fair market rental value for the
16 period beginning on July 1, 2022, and thereafter."

17 3. By amending subsection (e) to read:

18 "(e) Notwithstanding the tax rates established in
19 subsections ~~[(a)-(5)]~~ (a) and ~~[(e)-(3),]~~ (c), the tax rates levied,
20 assessed, and collected pursuant to subsections (a) and (c) shall
21 be 10.25 per cent for the period beginning on January 1, 2018, to
22 ~~[December 31, 2030,]~~ June 30, 2022, and seven per cent for the
23 period beginning on July 1, 2022, to December 31, 2030; provided
24 that:

1 (1) The tax revenues levied, assessed, and collected
2 pursuant to this subsection that are in excess of the
3 revenues realized from the levy, assessment, and
4 collection of tax at the [~~9.25 per cent~~] rate
5 established in subsections (a) and (c) shall be
6 deposited quarterly into the mass transit special fund
7 established under section 248-2.7; and

8 (2) If a court of competent jurisdiction determines that
9 the amount of county surcharge on state tax revenues
10 deducted and withheld by the State, pursuant to
11 section 248-2.6, violates statutory or constitutional
12 law and, as a result, awards moneys to a county with a
13 population greater than five hundred thousand, then an
14 amount equal to the monetary award shall be deducted
15 and withheld from the tax revenues deposited under
16 paragraph (1) into the mass transit special fund, and
17 those funds shall be a general fund realization of the
18 State.

19 The remaining tax revenues levied, assessed, and collected
20 at the [~~9.25 per cent~~] tax rate established pursuant to
21 subsections (a) and (c) shall be deposited into the general fund
22 in accordance with section 237D-6.5(b)."

23 SECTION 2. Statutory material to be repealed is bracketed
24 and stricken. New statutory material is underscored.

1 SECTION 3. This Act shall take effect upon its approval.

2

INTRODUCED BY: _____

Example 8-8

ENVIRONMENTAL RESPONSE, ENERGY, AND FOOD
SECURITY TAX RATES

HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 243-3.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) In addition to any other taxes provided by law,
4 subject to the exemptions set forth in section 243-7, there is
5 hereby imposed a state environmental response, energy, and food
6 security tax on each barrel or fractional part of a barrel of
7 petroleum product sold by a distributor to any retail dealer or
8 end user of petroleum product, other than a refiner. The tax
9 shall be [~~\$1.05~~] \$0.45 on each barrel or fractional part of a
10 barrel of petroleum product that is not aviation fuel; provided
11 that of the tax collected pursuant to this subsection:

12 (1) 5 cents of the tax on each barrel shall be deposited
13 into the environmental response revolving fund
14 established under section 128D-2;

1 (2) [4] 10 cents of the tax on each barrel shall be
2 deposited into the energy security special fund
3 established under section 201-12.8;

4 (3) 5 cents of the tax on each barrel shall be deposited
5 into the energy systems development special fund
6 established under section 304A-2169.1;

7 (4) 3 cents of the tax on each barrel shall be deposited
8 into the electric vehicle charging system subaccount
9 established pursuant to section 269-33(e); and

10 (5) 3 cents of the tax on each barrel shall be deposited
11 into the hydrogen fueling system subaccount
12 established pursuant to section 269-33(f).

13 The tax imposed by this subsection shall be paid by the
14 distributor of the petroleum product."

15 SECTION 2. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 3. This Act shall take effect on July 1, 2023.

18

INTRODUCED BY: _____

Example 8-9

FUEL TAX RATES

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 243-4, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Every distributor shall, in addition to any other
4 taxes provided by law, pay a license tax to the department of
5 taxation for each gallon of liquid fuel refined, manufactured,
6 produced, or compounded by the distributor and sold or used by
7 the distributor in the State or imported by the distributor, or
8 acquired by the distributor from persons who are not licensed
9 distributors, and sold or used by the distributor in the State.

10 Any person who sells or uses any liquid fuel, knowing that the
11 distributor from whom it was originally purchased has not paid
12 and is not paying the tax thereon, shall pay such tax as would
13 have applied to such sale or use by the distributor. The rates
14 of tax imposed are as follows:

15 (1) For each gallon of diesel oil, [~~1-cent~~] 2 cents;

- 1 (2) For each gallon of gasoline or other aviation fuel
2 sold for use in or used for airplanes, [~~1-cent,~~] 2
3 cents;
- 4 (3) For each gallon of naphtha sold for use in a power-
5 generating facility, 2 cents;
- 6 (4) For each gallon of liquid fuel, other than fuel
7 mentioned in paragraphs (1), (2), and (3), and other
8 than an alternative fuel, sold or used in the city and
9 county of Honolulu, or sold in any county for ultimate
10 use in the city and county of Honolulu, [~~16~~] 22 cents
11 state tax, and in addition thereto an amount, to be
12 known as the "city and county of Honolulu fuel tax",
13 as shall be levied pursuant to section 243-5;
- 14 (5) For each gallon of liquid fuel, other than fuel
15 mentioned in paragraphs (1), (2), and (3), and other
16 than an alternative fuel, sold or used in the county
17 of Hawaii, or sold in any county for ultimate use in
18 the county of Hawaii, [~~16~~] 21 cents state tax, and in
19 addition thereto an amount, to be known as the "county
20 of Hawaii fuel tax", as shall be levied pursuant to
21 section 243-5;
- 22 (6) For each gallon of liquid fuel, other than fuel
23 mentioned in paragraphs (1), (2), and (3), and other
24 than an alternative fuel, sold or used in the county
25 of Maui, or sold in any county for ultimate use in the

H.B. NO.

1 county of Maui, [~~16~~] 21 cents state tax, and in
 2 addition thereto an amount, to be known as the "county
 3 of Maui fuel tax", as shall be levied pursuant to
 4 section 243-5; and

5 (7) For each gallon of liquid fuel, other than fuel
 6 mentioned in paragraphs (1), (2), and (3), and other
 7 than an alternative fuel, sold or used in the county
 8 of Kauai, or sold in any county for ultimate use in
 9 the county of Kauai, [~~16~~] 21 cents state tax, and in
 10 addition thereto an amount, to be known as the "county
 11 of Kauai fuel tax", as shall be levied pursuant to
 12 section 243-5.

13 If it is shown to the satisfaction of the department, based
 14 upon proper records and from any other evidence as the department
 15 may require, that liquid fuel, other than fuel mentioned in
 16 paragraphs (1), (2), and (3), is used for agricultural equipment
 17 that does not operate upon the public highways of the State, the
 18 user thereof may obtain a refund of all taxes thereon imposed by
 19 this section in excess of 1 cent per gallon. The department
 20 shall adopt rules to administer such refunds."

21 SECTION 2. Statutory material to be repealed is bracketed
 22 and stricken. New statutory material is underscored.

23 SECTION 3. This Act shall take effect on July 1, 2022.

24

INTRODUCED BY: _____

Example 8-10

CIGARETTE AND TOBACCO TAX RATES

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 245-3, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "**§245-3 Taxes.** (a) Every wholesaler or dealer, in
4 addition to any other taxes provided by law, shall pay for the
5 privilege of conducting business and other activities in the
6 State:

7 (1) An excise tax equal to 5.00 cents for each cigarette
8 sold, used, or possessed by a wholesaler or dealer
9 after June 30, 1998, whether or not sold at wholesale,
10 or if not sold then at the same rate upon the use by
11 the wholesaler or dealer;

12 (2) An excise tax equal to 6.00 cents for each cigarette
13 sold, used, or possessed by a wholesaler or dealer
14 after September 30, 2002, whether or not sold at
15 wholesale, or if not sold then at the same rate upon
16 the use by the wholesaler or dealer;

- 1 (3) An excise tax equal to 6.50 cents for each cigarette
2 sold, used, or possessed by a wholesaler or dealer
3 after June 30, 2003, whether or not sold at wholesale,
4 or if not sold then at the same rate upon the use by
5 the wholesaler or dealer;
- 6 (4) An excise tax equal to 7.00 cents for each cigarette
7 sold, used, or possessed by a wholesaler or dealer
8 after June 30, 2004, whether or not sold at wholesale,
9 or if not sold then at the same rate upon the use by
10 the wholesaler or dealer;
- 11 (5) An excise tax equal to 8.00 cents for each cigarette
12 sold, used, or possessed by a wholesaler or dealer on
13 and after September 30, 2006, whether or not sold at
14 wholesale, or if not sold then at the same rate upon
15 the use by the wholesaler or dealer;
- 16 (6) An excise tax equal to 9.00 cents for each cigarette
17 sold, used, or possessed by a wholesaler or dealer on
18 and after September 30, 2007, whether or not sold at
19 wholesale, or if not sold then at the same rate upon
20 the use by the wholesaler or dealer;
- 21 (7) An excise tax equal to 10.00 cents for each cigarette
22 sold, used, or possessed by a wholesaler or dealer on
23 and after September 30, 2008, whether or not sold at

1 wholesale, or if not sold then at the same rate upon
2 the use by the wholesaler or dealer;

3 (8) An excise tax equal to 13.00 cents for each cigarette
4 sold, used, or possessed by a wholesaler or dealer on
5 and after July 1, 2009, whether or not sold at
6 wholesale, or if not sold then at the same rate upon
7 the use by the wholesaler or dealer;

8 (9) An excise tax equal to 11.00 cents for each little
9 cigar sold, used, or possessed by a wholesaler or
10 dealer on and after October 1, 2009, whether or not
11 sold at wholesale, or if not sold then at the same
12 rate upon the use by the wholesaler or dealer;

13 (10) An excise tax equal to 15.00 cents for each cigarette
14 or little cigar sold, used, or possessed by a
15 wholesaler or dealer on and after July 1, 2010,
16 whether or not sold at wholesale, or if not sold then
17 at the same rate upon the use by the wholesaler or
18 dealer;

19 (11) An excise tax equal to 16.00 cents for each cigarette
20 or little cigar sold, used, or possessed by a
21 wholesaler or dealer on and after July 1, 2011,
22 whether or not sold at wholesale, or if not sold then
23 at the same rate upon the use by the wholesaler or
24 dealer;

1 (12) An excise tax equal to seventy per cent of the
2 wholesale price of each article or item of tobacco
3 products, other than large cigars, sold by the
4 wholesaler or dealer on and after September 30, 2009,
5 whether or not sold at wholesale, or if not sold then
6 at the same rate upon the use by the wholesaler or
7 dealer; ~~and~~

8 (13) An excise tax equal to fifty per cent of the wholesale
9 price of each large cigar of any length, sold, used,
10 or possessed by a wholesaler or dealer on and after
11 September 30, 2009, whether or not sold at wholesale,
12 or if not sold then at the same rate upon the use by
13 the wholesaler or dealer~~[-]~~; and

14 (14) An excise tax equal to the lesser of:
15 (A) 50.00 cents; or
16 (B) Fifty per cent of the wholesale price;
17 for each large cigar of any length, sold, used, or
18 possessed by a wholesaler or dealer on and after July
19 1, 2022, whether or not sold at wholesale, or if not
20 sold then at the same rate upon the use by the
21 wholesaler or dealer.

22 Where the tax imposed has been paid on cigarettes, little cigars,
23 or tobacco products that thereafter become the subject of a
24 casualty loss deduction allowable under chapter 235, the tax paid

1 shall be refunded or credited to the account of the wholesaler or
2 dealer. The tax shall be applied to cigarettes through the use
3 of stamps."

4 SECTION 2. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 3. This Act shall take effect on July 1, 2022.

7

INTRODUCED BY: _____

Example 8-11

CONVEYANCE TAX RATES

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO CONVEYANCE TAX.

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

1 SECTION 1. Section 247-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§247-2 Basis and rate of tax.** The tax imposed by section
4 247-1 shall be based on the actual and full consideration
5 (whether cash or otherwise, including any promise, act,
6 forbearance, property interest, value, gain, advantage, benefit,
7 or profit), paid or to be paid for all transfers or conveyance of
8 realty or any interest therein, that shall include any liens or
9 encumbrances thereon at the time of sale, lease, sublease,
10 assignment, transfer, or conveyance, and shall be at the
11 following rates:

12 (1) Except as provided in paragraph (2):

13 (A) [~~Ten~~] Five cents per \$100 for properties with a
14 value of less than \$600,000;

15 (B) [~~Twenty~~] Ten cents per \$100 for properties with a
16 value of at least \$600,000, but less than
17 \$1,000,000;

H.B. NO.

- 1 (C) Thirty cents per \$100 for properties with a value
2 of at least \$1,000,000, but less than \$2,000,000;
- 3 (D) [~~Fifty cents~~] One dollar per \$100 for properties
4 with a value of at least \$2,000,000, but less
5 than \$4,000,000;
- 6 (E) [~~Seventy~~] One dollar and forty cents per \$100 for
7 properties with a value of at least \$4,000,000,
8 but less than \$6,000,000;
- 9 (F) [~~Ninety~~] One dollar and eighty cents per \$100 for
10 properties with a value of at least \$6,000,000,
11 but less than \$10,000,000; and
- 12 (G) [~~One dollar~~] Two dollars per \$100 for properties
13 with a value of \$10,000,000 or greater; and
- 14 (2) For the sale of a condominium or single family
15 residence for which the purchaser is ineligible for a
16 county homeowner's exemption on property tax:
- 17 (A) [~~Fifteen~~] Ten cents per \$100 for properties with
18 a value of less than \$600,000;
- 19 (B) [~~Twenty-five~~] Twenty cents per \$100 for
20 properties with a value of at least \$600,000, but
21 less than \$1,000,000;
- 22 (C) Forty cents per \$100 for properties with a value
23 of at least \$1,000,000, but less than \$2,000,000;

1 (D) [~~Sixty~~] One dollar and twenty cents per \$100 for
2 properties with a value of at least \$2,000,000,
3 but less than \$4,000,000;

4 (E) [~~Eighty-five~~] One dollar and seventy cents per
5 \$100 for properties with a value of at least
6 \$4,000,000, but less than \$6,000,000;

7 (F) [~~One dollar and ten~~] Two dollars and twenty cents
8 per \$100 for properties with a value of at least
9 \$6,000,000, but less than \$10,000,000; and

10 (G) [~~One dollar and twenty-five~~] Two dollars and
11 fifty cents per \$100 for properties with a value
12 of \$10,000,000 or greater,

13 of [~~such~~] the actual and full consideration; provided that in the
14 case of a lease or sublease, this chapter shall apply only to a
15 lease or sublease whose full unexpired term is for a period of
16 five years or more, and in those cases, including (where
17 appropriate) those cases where the lease has been extended or
18 amended, the tax in this chapter shall be based on the cash value
19 of the lease rentals discounted to present day value and
20 capitalized at the rate of six per cent, plus the actual and full
21 consideration paid or to be paid for any and all improvements, if
22 any, that shall include on-site as well as off-site improvements,
23 applicable to the leased premises; and provided further that the
24 tax imposed for each transaction shall be not less than \$1."

1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect on July 1, 2022.

7

INTRODUCED BY: _____

Example 8-12

ESTATE TAX RATES

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO ESTATE TAXES.

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

1 SECTION 1. Section 236E-8, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) With respect to the estates of decedents dying after
4 January 25, 2012, the tax based on the Hawaii net taxable estate
5 shall be as provided in the following schedule:

6	If the Hawaii net taxable	
7	estate is:	The tax shall be:
8	\$1,000,000 or less	10.0% of the Hawaii net
9		taxable estate
10		
11	Over \$1,000,000 but	\$100,000 plus 11.0% of the
12	not over \$2,000,000	amount by which the
13		Hawaii net taxable estate
14		exceeds \$1,000,000
15		
16	Over \$2,000,000 but	\$210,000 plus 12% of the
17	not over \$3,000,000	amount by which the

H.B. NO.

1		Hawaii net taxable estate
2		exceeds \$2,000,000
3		
4	Over \$3,000,000 but	\$330,000 plus 13% of the
5	not over \$4,000,000	amount by which the
6		Hawaii net taxable estate
7		exceeds \$3,000,000
8		
9	Over \$4,000,000 but	\$460,000 plus 14% of the
10	not over \$5,000,000	amount by which the
11		Hawaii net taxable estate
12		exceeds \$4,000,000
13		
14	Over \$5,000,000 but	\$600,000 plus 15.7% of the
15	not over \$10,000,000	amount by which the
16		Hawaii net taxable estate
17		exceeds \$5,000,000
18		
19	Over \$10,000,000 <u>but</u>	\$1,385,000 plus 20% of the
20	<u>not over \$15,000,000</u>	amount by which the
21		Hawaii net taxable estate
22		exceeds \$10,000,000[-]
23		
24	<u>Over \$15,000,000</u>	<u>\$2,385,000 plus 25% of the</u>

H.B. NO.

1 amount by which the
2 Hawaii net taxable estate
3 exceeds \$15,000,000."

4 SECTION 2. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 3. This Act shall take effect upon its approval
7 and shall apply to decedents dying or taxable transfers occurring
8 after December 31, 2022.

9

INTRODUCED BY: _____

Example 8-13

**DISPOSITION OF TRANSIENT ACCOMMODATIONS TAX
REVENUE**

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 237D-6.5, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Except for the revenues collected pursuant to section
4 237D-2(e), revenues collected under this chapter shall be
5 distributed in the following priority, with the excess revenues
6 to be deposited into the general fund:

7 (1) \$1,500,000 shall be allocated to the Turtle Bay
8 conservation easement special fund beginning July 1,
9 2015, for the reimbursement to the state general fund
10 of debt service on reimbursable general obligation
11 bonds, including ongoing expenses related to the
12 issuance of the bonds, the proceeds of which were used
13 to acquire the conservation easement and other real
14 property interests in Turtle Bay, Oahu, for the
15 protection, preservation, and enhancement of natural

1 resources important to the State, until the bonds are
2 fully amortized;

3 (2) \$11,000,000 shall be allocated to the convention
4 center enterprise special fund established under
5 section 201B-8;

6 (3) An allocation shall be deposited into the tourism
7 emergency special fund, established in section
8 201B-10, in a manner sufficient to maintain a fund
9 balance of \$5,000,000 in the tourism emergency special
10 fund; and

11 (4) [~~\$3,000,000~~] \$5,000,000 shall be allocated to the
12 special land and development fund established under
13 section 171-19; provided that the allocation shall be
14 expended in accordance with the Hawaii tourism
15 authority strategic plan for:

16 (A) The protection, preservation, maintenance, and
17 enhancement of natural resources, including state
18 parks, beaches, and trails important to the
19 visitor industry;

20 (B) Planning, construction, and repair of facilities;
21 and

22 (C) Operation [~~and~~], maintenance costs of public
23 lands, including state parks, beaches, and trails
24 connected with enhancing the visitor experience.

1 All transient accommodations taxes shall be paid into the
2 state treasury each month within ten days after collection and
3 shall be kept by the state director of finance in special
4 accounts for distribution as provided in this subsection.

5 As used in this subsection, "fiscal year" means the twelve-
6 month period beginning on July 1 of a calendar year and ending on
7 June 30 of the following calendar year."

8 SECTION 2. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 3. This Act shall take effect on July 1, 2022.

11

INTRODUCED BY: _____

Example 8-14

DISPOSITION OF CIGARETTE AND TOBACCO TAX
REVENUE

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 245-15, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§245-15 Disposition of revenues.** All moneys collected
4 pursuant to this chapter shall be paid into the state treasury as
5 state realizations to be kept and accounted for as provided by
6 law; provided that, of the moneys collected under the tax imposed
7 pursuant to:

8 (1) Section 245-3(a)(5), after September 30, 2006, and
9 prior to October 1, 2007, 1.0 cent per cigarette shall
10 be deposited to the credit of the Hawaii cancer
11 research special fund, established pursuant to section
12 304A-2168, for research and operating expenses and for
13 capital expenditures;

14 (2) Section 245-3(a)(6), after September 30, 2007, and
15 prior to October 1, 2008:

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1 (A) 1.5 cents per cigarette shall be deposited to the
2 credit of the Hawaii cancer research special
3 fund, established pursuant to section 304A-2168,
4 for research and operating expenses and for
5 capital expenditures;

6 (B) 0.25 cents per cigarette shall be deposited to
7 the credit of the trauma system special fund
8 established pursuant to section 321-22.5; and

9 (C) 0.25 cents per cigarette shall be deposited to
10 the credit of the emergency medical services
11 special fund established pursuant to section
12 321-234;

13 (3) Section 245-3(a)(7), after September 30, 2008, and
14 prior to July 1, 2009:

15 (A) 2.0 cents per cigarette shall be deposited to the
16 credit of the Hawaii cancer research special
17 fund, established pursuant to section 304A-2168,
18 for research and operating expenses and for
19 capital expenditures;

20 (B) 0.5 cents per cigarette shall be deposited to the
21 credit of the trauma system special fund
22 established pursuant to section 321-22.5;

23 (C) 0.25 cents per cigarette shall be deposited to
24 the credit of the community health centers

1 special fund established pursuant to section
2 321-1.65; and

3 (D) 0.25 cents per cigarette shall be deposited to
4 the credit of the emergency medical services
5 special fund established pursuant to section
6 321-234;

7 (4) Section 245-3(a)(8), after June 30, 2009, and prior to
8 July 1, 2013:

9 (A) 2.0 cents per cigarette shall be deposited to the
10 credit of the Hawaii cancer research special
11 fund, established pursuant to section 304A-2168,
12 for research and operating expenses and for
13 capital expenditures;

14 (B) 0.75 cents per cigarette shall be deposited to
15 the credit of the trauma system special fund
16 established pursuant to section 321-22.5;

17 (C) 0.75 cents per cigarette shall be deposited to
18 the credit of the community health centers
19 special fund established pursuant to section
20 321-1.65; and

21 (D) 0.5 cents per cigarette shall be deposited to the
22 credit of the emergency medical services special
23 fund established pursuant to section 321-234;

1 (5) Section 245-3(a)(11), after June 30, 2013, and prior
2 to July 1, 2015:

3 (A) 2.0 cents per cigarette shall be deposited to the
4 credit of the Hawaii cancer research special
5 fund, established pursuant to section 304A-2168,
6 for research and operating expenses and for
7 capital expenditures;

8 (B) 1.5 cents per cigarette shall be deposited to the
9 credit of the trauma system special fund
10 established pursuant to section 321-22.5;

11 (C) 1.25 cents per cigarette shall be deposited to
12 the credit of the community health centers
13 special fund established pursuant to section
14 321-1.65; and

15 (D) 1.25 cents per cigarette shall be deposited to
16 the credit of the emergency medical services
17 special fund established pursuant to section
18 321-234; ~~and~~

19 (6) Section 245-3(a)(11), after June 30, 2015, and
20 ~~[thereafter:]~~ prior to July 1, 2022:

21 (A) 2.0 cents per cigarette shall be deposited to the
22 credit of the Hawaii cancer research special
23 fund, established pursuant to section 304A-2168,

1 for research and operating expenses and for
2 capital expenditures;

3 (B) 1.125 cents per cigarette, but not more than
4 \$7,400,000 in a fiscal year, shall be deposited
5 to the credit of the trauma system special fund
6 established pursuant to section 321-22.5;

7 (C) 1.25 cents per cigarette, but not more than
8 \$8,800,000 in a fiscal year, shall be deposited
9 to the credit of the community health centers
10 special fund established pursuant to section
11 321-1.65; and

12 (D) 1.25 cents per cigarette, but not more than
13 \$8,800,000 in a fiscal year, shall be deposited
14 to the credit of the emergency medical services
15 special fund established pursuant to section
16 321-234[~~-~~]; and

17 (7) Section 245-3(a)(11), after June 30, 2022, and
18 thereafter:

19 (A) 2.0 cents per cigarette shall be deposited to the
20 credit of the Hawaii cancer research special
21 fund, established pursuant to section 304A-2168,
22 for research and operating expenses and for
23 capital expenditures;

1 (B) 1.5 cents per cigarette, but not more than
 2 \$7,500,000 in a fiscal year, shall be deposited
 3 to the credit of the trauma system special fund
 4 established pursuant to section 321-22.5;

5 (C) 1.25 cents per cigarette, but not more than
 6 \$9,000,000 in a fiscal year, shall be deposited
 7 to the credit of the community health centers
 8 special fund established pursuant to section
 9 321-1.65; and

10 (D) 1.25 cents per cigarette, but not more than
 11 \$9,000,000 in a fiscal year, shall be deposited
 12 to the credit of the emergency medical services
 13 special fund established pursuant to section
 14 321-234.

15 The department shall provide an annual accounting of these
 16 dispositions to the legislature."

17 SECTION 2. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 3. This Act shall take effect on July 1, 2022.

20

INTRODUCED BY: _____

Example 8-15

DISPOSITION OF CONVEYANCE TAX REVENUE

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 247-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§247-7 Disposition of taxes.** All taxes collected under
4 this chapter shall be paid into the state treasury to the credit
5 of the general fund of the State, to be used and expended for the
6 purposes for which the general fund was created and exists by
7 law; provided that of the taxes collected each fiscal year:

8 (1) Ten per cent or \$5,100,000, whichever is less, shall
9 be paid into the land conservation fund established
10 pursuant to section 173A-5; and

11 (2) Fifty per cent [~~or \$38,000,000, whichever is less,~~]
12 shall be paid into the rental housing revolving fund
13 established by section 201H-202."

14 SECTION 2. Statutory material to be repealed is bracketed
15 and stricken.

1 SECTION 3. This Act shall take effect on July 1, 2022.

2

INTRODUCED BY: _____

Example 8-16

EXTENDING AUTHORITY TO ESTABLISH A COUNTY
SURCHARGE ON STATE TAX

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 46-16.8, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) Each county that has not established a surcharge on
4 state tax prior to July 1, 2015, may establish the surcharge at
5 the rates enumerated in sections 237-8.6 and 238-2.6. A county
6 electing to establish this surcharge shall do so by ordinance;
7 provided that:

8 (1) No ordinance shall be adopted until the county has
9 conducted a public hearing on the proposed ordinance;

10 (2) The ordinance shall be adopted prior to [~~March 31,~~
11 ~~2019,~~] June 30, 2023; and

12 (3) No county surcharge on state tax that may be
13 authorized under this subsection shall be levied prior
14 to January 1, 2019, or after December 31, 2030.

15 A county electing to exercise the authority granted under
16 this subsection shall notify the director of taxation within ten

1 days after the county has adopted a surcharge on state tax
2 ordinance. Beginning on January 1, 2019, [~~or~~] January 1, 2020,
3 January 1, 2023, or January 1, 2024, as applicable pursuant to
4 sections 237-8.6 and 238-2.6, the director of taxation shall
5 levy, assess, collect, and otherwise administer the county
6 surcharge on state tax."

7 SECTION 2. Section 237-8.6, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) Each county surcharge on state tax that may be
10 adopted or extended pursuant to section 46-16.8 shall be levied
11 beginning in a taxable year after the adoption of the relevant
12 county ordinance; provided that no surcharge on state tax may be
13 levied:

14 (1) Prior to:

15 (A) January 1, 2007, if the county surcharge on state
16 tax was established by an ordinance adopted prior
17 to December 31, 2005;

18 (B) January 1, 2019, if the county surcharge on state
19 tax was established by the adoption of an
20 ordinance after June 30, 2015, but prior to June
21 30, 2018; [~~or~~]

22 (C) January 1, 2020, if the county surcharge on state
23 tax was established by the adoption of an

1 ordinance on or after June 30, 2018, but prior to
2 March 31, 2019; [~~and~~]

3 (D) January 1, 2023, if the county surcharge on state
4 tax was established by the adoption of an
5 ordinance on or after March 31, 2019, but prior
6 to June 30, 2022; or

7 (E) January 1, 2024, if the county surcharge on state
8 tax was established by the adoption of an
9 ordinance on or after June 30, 2022, but prior to
10 June 30, 2023; and

11 (2) After December 31, 2030."

12 SECTION 3. Section 238-2.6, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) Each county surcharge on state tax that may be
15 adopted or extended shall be levied beginning in a taxable year
16 after the adoption of the relevant county ordinance; provided
17 that no surcharge on state tax may be levied:

18 (1) Prior to:

19 (A) January 1, 2007, if the county surcharge on state
20 tax was established by an ordinance adopted prior
21 to December 31, 2005;

22 (B) January 1, 2019, if the county surcharge on state
23 tax was established by the adoption of an

H.B. NO.

- 1 ordinance after June 30, 2015, but prior to
- 2 June 30, 2018; [~~or~~]
- 3 (C) January 1, 2020, if the county surcharge on state
- 4 tax was established by the adoption of an
- 5 ordinance on or after June 30, 2018, but prior to
- 6 March 31, 2019; [~~and~~]
- 7 (D) January 1, 2023, if the county surcharge on state
- 8 tax was established by the adoption of an
- 9 ordinance on or after March 31, 2019, but prior
- 10 to June 30, 2022; or
- 11 (E) January 1, 2024, if the county surcharge on state
- 12 tax was established by the adoption of an
- 13 ordinance on or after June 30, 2022, but prior to
- 14 June 30, 2023; and
- 15 (2) After December 31, 2030."

16 SECTION 4. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

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

19 INTRODUCED BY: _____

Example 8-17

**EXTENDING REPEAL DATE OF COUNTY SURCHARGE ON
STATE TAX**

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. Section 46-16.8, Hawaii Revised Statutes, is
2 amended by amending subsections (b) and (c) to read as follows:
3 "(b) Each county that has established a surcharge on state
4 tax prior to July 1, 2015, under authority of subsection (a) may
5 extend the surcharge until December 31, [~~2030,~~] 2033, at the same
6 rates. A county electing to extend this surcharge shall do so by
7 ordinance; provided that:

8 (1) No ordinance shall be adopted until the county has
9 conducted a public hearing on the proposed ordinance;
10 and

11 (2) The ordinance shall be adopted prior to January 1,
12 2018.

13 A county electing to exercise the authority granted under
14 this subsection shall notify the director of taxation within ten
15 days after the county has adopted an ordinance extending the
16 surcharge on state tax. The director of taxation shall levy,

1 assess, collect, and otherwise administer the extended surcharge
2 on state tax.

3 (c) Each county that has not established a surcharge on
4 state tax prior to July 1, 2015, may establish the surcharge at
5 the rates enumerated in sections 237-8.6 and 238-2.6. A county
6 electing to establish this surcharge shall do so by ordinance;
7 provided that:

8 (1) No ordinance shall be adopted until the county has
9 conducted a public hearing on the proposed ordinance;

10 (2) The ordinance shall be adopted prior to March 31,
11 2019; and

12 (3) No county surcharge on state tax that may be
13 authorized under this subsection shall be levied prior
14 to January 1, 2019, or after December 31, [~~2030.~~]
15 2033.

16 A county electing to exercise the authority granted under
17 this subsection shall notify the director of taxation within ten
18 days after the county has adopted a surcharge on state tax
19 ordinance. Beginning on January 1, 2019, or January 1, 2020, as
20 applicable pursuant to sections 237-8.6 and 238-2.6, the director
21 of taxation shall levy, assess, collect, and otherwise administer
22 the county surcharge on state tax."

23 SECTION 2. Section 237-8.6, Hawaii Revised Statutes, is
24 amended by amending subsection (b) to read as follows:

1 "(b) Each county surcharge on state tax that may be
2 adopted or extended pursuant to section 46-16.8 shall be levied
3 beginning in a taxable year after the adoption of the relevant
4 county ordinance; provided that no surcharge on state tax may be
5 levied:

6 (1) Prior to:

7 (A) January 1, 2007, if the county surcharge on state
8 tax was established by an ordinance adopted prior
9 to December 31, 2005;

10 (B) January 1, 2019, if the county surcharge on state
11 tax was established by the adoption of an
12 ordinance after June 30, 2015, but prior to
13 June 30, 2018; or

14 (C) January 1, 2020, if the county surcharge on state
15 tax was established by the adoption of an
16 ordinance on or after June 30, 2018, but prior to
17 March 31, 2019; and

18 (2) After December 31, [~~2030~~] 2033."

19 SECTION 3. Section 238-2.6, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:

21 "(b) Each county surcharge on state tax that may be
22 adopted or extended shall be levied beginning in a taxable year
23 after the adoption of the relevant county ordinance; provided
24 that no surcharge on state tax may be levied:

- 1 (1) Prior to:
- 2 (A) January 1, 2007, if the county surcharge on state
- 3 tax was established by an ordinance adopted prior
- 4 to December 31, 2005;
- 5 (B) January 1, 2019, if the county surcharge on state
- 6 tax was established by the adoption of an
- 7 ordinance after June 30, 2015, but prior to
- 8 June 30, 2018; or
- 9 (C) January 1, 2020, if the county surcharge on state
- 10 tax was established by the adoption of an
- 11 ordinance on or after June 30, 2018, but prior to
- 12 March 31, 2019; and
- 13 (2) After December 31, [~~2030-~~] 2033."

14 SECTION 4. Act 247, Session Laws of Hawaii 2005, as

15 amended by Act 240, Session Laws of Hawaii 2015, as amended by

16 Act 1, First Special Session Laws of Hawaii 2017, is amended by

17 amending section 9 to read as follows:

18 "SECTION 9. This Act shall take effect upon its approval;

19 provided that:

- 20 (1) If none of the counties of the State adopt an
- 21 ordinance to levy a county surcharge on state tax by
- 22 December 31, 2005, this Act shall be repealed and
- 23 section 437D-8.4, Hawaii Revised Statutes, shall be

1 reenacted in the form in which it read on the day
2 prior to the effective date of this Act;

3 (2) If any county does not adopt an ordinance to levy a
4 county surcharge on state tax by December 31, 2005, it
5 shall be prohibited from adopting such an ordinance
6 pursuant to this Act, unless otherwise authorized by
7 the legislature through a separate legislative act;
8 and

9 (3) If an ordinance to levy a county surcharge on state
10 tax is adopted by December 31, 2005:

11 (A) The ordinance shall be repealed on December 31,
12 2022; provided that the repeal of the ordinance
13 shall not affect the validity or effect of an
14 ordinance to extend a surcharge on state tax
15 adopted pursuant to an act of the legislature;
16 and

17 (B) This Act shall be repealed on December 31,
18 ~~[2030,]~~ 2033, and section 437D-8.4, Hawaii
19 Revised Statutes, shall be reenacted in the form
20 in which it read on the day prior to the
21 effective date of this Act; provided that the
22 amendments made to section 437D-8.4, Hawaii
23 Revised Statutes, by Act 226, Session Laws of
24 Hawaii 2008, as amended by Act 11, Session Laws

1 of Hawaii 2009, and Act 110, Session Laws of
2 Hawaii 2014, shall not be repealed."

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval.

6

INTRODUCED BY: _____

Example 8-18

TAX HOLIDAY

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO A GENERAL EXCISE TAX HOLIDAY.

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

1 SECTION 1. Chapter 237, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§237- Annual tax holiday. (a) Notwithstanding any
5 law to the contrary, taxes under this chapter shall not be due on
6 the sale of retail goods and services, if the sale takes place
7 during the following periods:

8 (1) Beginning at 12:01 a.m. on the first Friday in June
9 2022 and ending at 12 midnight of the Sunday
10 immediately following;

11 (2) Beginning at 12:01 a.m. on the first Friday in
12 September 2022 and ending at 12 midnight of the Sunday
13 immediately following;

14 (3) Beginning at 12:01 a.m. on the first Friday in
15 December 2022 and ending at 12 midnight of the Sunday
16 immediately following;

1 (4) Beginning at 12:01 a.m. on the first Friday in March
2 2023 and ending at 12 midnight of the Sunday
3 immediately following;

4 provided that all savings generated by this section shall be
5 passed on by the seller to the purchaser without any increase in
6 price. This exemption shall apply to the sale of retail goods
7 and services only and not to sales on items that will be resold
8 in any manner.

9 (b) The exemption provided in this section shall not apply
10 to:

11 (1) Rebates, layaway sales, rain checks, or exchanges when
12 the transactions occur before or after the tax holiday
13 period; and

14 (2) Mail, telephone, e-mail, or internet orders with
15 businesses operating outside the State.

16 (c) Articles that are normally sold as a unit shall
17 continue to be sold in that manner and shall not be priced
18 separately and sold as individual items to obtain the exemption.

19 (d) Shipping and handling charges shall be included as
20 part of the sales price of the item.

21 (e) The retailer shall not be required to obtain any
22 special license, permit, or other documentation of sales during
23 the exemption holiday period; provided that the retailer's

1 records shall clearly identify the type of item sold, the date
2 the item was sold, and the sales price of the item."

3 SECTION 2. New statutory material is underscored.

4 SECTION 3. This Act shall take effect upon its approval.

5

INTRODUCED BY: _____

Example 8-19

TAX HOLIDAY--SPECIFIC TRANSACTIONS

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO SCHOOL SUPPLIES.

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

1 SECTION 1. Chapter 237, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:
4 "§237- School supply tax holiday. (a) Notwithstanding
5 any law to the contrary, taxes under this chapter shall not be
6 due on the sale of school supplies if the sale takes place during
7 the period beginning at 12:01 a.m. on the last Friday in July of
8 each year and ending at 11:59 p.m. of the Sunday immediately
9 following that Friday; provided that all savings generated by
10 this section shall be passed on by the seller to the purchaser
11 without any increase in price. This exemption shall apply to the
12 retail sale of school supplies only and not to sales on items
13 that will be resold in any manner.
14 (b) The exemption provided in this section shall not apply
15 to rebates, layaway sales, rain checks, or exchanges when the
16 transactions occur before or after the tax holiday period.

1 (c) The exemption provided in this section shall apply
2 only to businesses operating with a general excise tax license
3 from the department.

4 (d) Multiple articles that are normally sold as a
5 collective unit shall continue to be sold in that manner and
6 shall not be priced separately and sold as individual items to
7 qualify for the exemption.

8 (e) Shipping and handling charges shall be included as
9 part of the sales price of the item.

10 (f) A retailer shall not be required to obtain any special
11 license, permit, or other documentation of sales during the
12 exemption holiday period; provided that the retailer has a
13 general excise tax license; provided further that the retailer's
14 records shall clearly identify the type of item sold, the date
15 the item was sold, and the sales price of the item.

16 (g) For purposes of this section, "school supply" means an
17 item commonly used by a student in a course of study and includes
18 the items set out in the following all-inclusive list: binders,
19 book bags, textbooks, calculators, cellophane tape, blackboard
20 chalk, compasses, composition books, crayons, erasers, expandable
21 folders, pocket folders, plastic folders, manila folders, glue,
22 paste, paste sticks, highlighters, index cards, index card boxes,
23 legal pads, lunch boxes, markers, notebooks, loose leaf ruled
24 notebook paper, copy paper, graph paper, tracing paper, manila

1 paper, colored paper, poster board, construction paper, pencil
2 boxes and other school supply boxes, pencil sharpeners, pencils,
3 pens, protractors, rulers, scissors, and writing tablets.
4 "School supply" excludes all items not listed in this
5 definition."

6 SECTION 2. New statutory material is underscored.

7 SECTION 3. This Act shall take effect on July 1, 2022.

8

INTRODUCED BY: _____

Chapter 9

RESOLUTIONS AND CERTIFICATES

There are two types of resolutions used by the Hawaii Legislature--concurrent resolutions and single chamber resolutions. Concurrent resolutions express the sentiment of the Legislature as a whole, while single chamber resolutions express the sentiment of the adopting chamber. Resolutions do not have the force and effect of law. Therefore, adoption of a concurrent or single chamber resolution will not require someone to do something (i.e., do not use the words shall, is directed to, etc.). Instead, a resolution more appropriately requests the person, agency, or entity to do it.

Part I. Types of Resolutions

1. Concurrent Resolutions

A concurrent resolution is adopted after passage at a single reading in each chamber. Once adopted by both, it is an official statement of both chambers of the Legislature.

The distinctive clause in a concurrent resolution reads:

BE IT RESOLVED by the Senate [or House of Representatives, depending upon the chamber in which the concurrent resolution is originally introduced] of the _____ Legislature of the State of Hawaii, Regular Session of 20__, the House of Representatives [or Senate] concurring,

See Example 9-1 on page 304.

2. Single Chamber Resolutions

Single chamber resolutions require only one reading in the chamber of introduction for adoption.

The distinctive clause in a single chamber resolution reads:

BE IT RESOLVED by the House of Representatives [or Senate] of the _____ Legislature of the State of Hawaii, Regular Session of 20__,

See Example 9-2 on page 306.

Part II. Resolution Structure

Resolutions can be divided into three basic parts: a title; *Whereas* provisions, which usually provide the findings and justification for the resolution; and the *Be It Resolved/Be It Further Resolved* provisions, which describe the specific action that is being requested in the resolution. Note that some resolutions may be drafted without *Whereas* paragraphs. See Example 9-3 (page 308) and Example 9-5 (page 310).

1. Title

Resolution titles are typically drafted as a brief description of the purpose of or action being requested by the resolution.

Examples:

REQUESTING THE DEPARTMENT OF HEALTH TO CONVENE A REGIONAL
CESSPOOL MODERNIZATION TASK FORCE WITHIN EACH COUNTY
OF THE STATE.

REQUESTING THE HAWAII TOURISM AUTHORITY TO COLLABORATE WITH
THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO
EDUCATE VISITORS TO THE STATE ABOUT THE HARMFUL
EFFECTS OF OXYBENZONE SUNSCREEN ON CORAL REEFS.

ENCOURAGING THE FACULTY OF THE UNIVERSITY OF HAWAII SYSTEM
TO MAKE GREATER USE OF OPEN EDUCATION RESOURCES AND
OTHER LOW-COST OR FREE RESOURCES.

AMENDING THE COMMITTEE ASSIGNMENTS OF THE STANDING
COMMITTEES OF THE HOUSE OF REPRESENTATIVES OF THE
THIRTY-FIRST LEGISLATURE.

ADOPTING THE SENATE ADMINISTRATIVE AND FINANCIAL MANUAL OF
THE SENATE OF THE THIRTIETH LEGISLATURE.

2. Whereas Paragraphs

Resolutions are generally drafted with the broadest *Whereas* paragraphs coming first and with more definitive statements following. Similar to statutory drafting, substantive resolutions (*i.e.*, those requesting someone to do something, such as perform a study) should contain factually accurate statements in the *Whereas* paragraphs. The *Whereas* paragraphs should use the format shown in the sample language below. Note that all but the final *Whereas* paragraph ends with a semicolon and the word "*and*," while the final *Whereas* paragraph ends with, "*now, therefore*,".

Example:

WHEREAS, broadband services are essential infrastructure for the twenty-first century and play an important role in providing access to knowledge and opportunities from around the world; and

WHEREAS, universal access to broadband services has been touted as a critical element for advancing economic opportunities; and

WHEREAS, rural communities in the State are currently underserved with respect to access to broadband access compared to their urban counterparts; and

WHEREAS, providing access to broadband communication services will enable residents in rural communities to gain critically needed access to online services such as medical care, education, emergency services, and various economic opportunities; now, therefore,

[Be It Resolved paragraphs follow]

3. Be It Resolved/Be It Further Resolved Paragraphs

As noted previously, the Be It Resolved/Be It Further Resolved paragraphs describe the specific action being requested in the resolution. Legislative drafters should remember that if someone is asked to perform an act or to conduct a study, etc., that person should be given a time by which to report back to the Legislature on the performance of the act or to submit the study.

The final Be It Further Resolved paragraph traditionally requests the clerk to transmit certified copies of the resolution to impacted agencies or organizations. In particular, the agency that is being requested to perform an act should be included in this resolution paragraph. Also, if a resolution or concurrent resolution requests a legislative committee to perform a task, or creates a joint committee to do the same, the presiding officer of a chamber (*i.e.*, either the President of the Senate or the Speaker of the House of Representatives), in addition to the chairperson of the committee asked to perform an act, should be sent a copy of the resolution.

The Be It Resolved/Be It Further Resolved paragraphs should use the format shown in the sample language below. Note that the first paragraph begins with the words "BE IT RESOLVED" while all subsequent paragraphs begin with the words "BE IT FURTHER RESOLVED." Each paragraph ends with a semicolon followed by the word "and" except for the final paragraph, which ends with a period.

Example:

BE IT RESOLVED by the Senate of the Thirty-_____ Legislature of the State of Hawaii, Regular Session of 20__, the House of Representatives concurring, that the Department of Transportation is requested to conduct a study of the flooding and safety issues and to prepare a plan to remediate the flooding issues at the intersection of Mamalahoa Highway and Meleana Place; and

BE IT FURTHER RESOLVED that the Department of Transportation is requested to submit a report of its findings and plan for remediation, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 20__; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Director of Transportation and Mayor of Hawaii County.

4. Distinctions from Bill Drafting

Unlike bills, resolution titles may be amended after introduction.

Unlike statutory drafting, state and county agencies and officials should be capitalized in resolutions.

5. Report Titles

When drafting a resolution using the Hawaii State Legislature's bill drafting template, drafters typically add a report title to the resolution that includes a list of index terms or keywords relevant to the resolution. The terms are separated using semicolons and are listed using initial capitals. Drafters should follow the same conventions used to populate the report title field for bills. See chapter 2, part II, item 6, on page 19 of this manual.

Unlike bills, the report title is not physically appended to the end of the resolution. Instead, the report title is contained in the resolution's metadata for use in the Hawaii State Legislature's information system.

Unlike bills, resolutions do not include a description field.

Note: Because a resolution's report title is included only in the resolution's metadata and is inserted into the document using a special field in the Legislature's bill drafting template, the considerations noted in this item apply only to persons drafting resolutions using the Legislature's bill drafting template.

Part III. Resolutions as Part of the Legislative Process

Despite the fact that resolutions do not have the force and effect of law, they sometimes play an important role in the lawmaking process.

1. Use in Conducting Legislative Business

Both the Senate and House of Representatives frequently use resolutions to conduct business. For example, upon convening, both chambers pass resolutions to elect officers and adopt or amend chamber rules. Both chambers also pass concurrent resolutions to establish recess days and invite the Governor (and, often in recent years, the Chief Justice) to address the Legislature in joint session for the State of the State (or State of the Judiciary) Address. See Example 9-3 on page 308.

Resolutions are also occasionally used to make formal requests expressing the sentiment of the Legislature or of a legislative chamber. For instance, Example 9-4 on page 309 is a copy of Senate Concurrent Resolution 309, adopted during the 1995 regular session, which requested the Governor to return a bill to the Legislature for reconsideration after it had passed three readings in each chamber. Though actually only a request, the resolution is still a formal document expressing the sentiment of the Legislature, and in this instance, provides formal documentation of this particular step in the enactment of the bill in question.

Similarly, Example 9-5 on page 310 is a sample of a resolution that can be used by one chamber of the Legislature to recall a bill from the other chamber.

Example 9-6 on page 311 is another instance of how a resolution can have a significant impact despite not having the force and effect of law. In this case, the Legislature is expressing its sentiment for the purpose of ratifying a proposed amendment to the Constitution of the United States.

2. Statutes Requiring the Use of Resolutions

In addition to being used to conduct legislative business, certain statutes also require the use of resolutions for specific purposes. Some common examples follow. Note that the order in which these items appear here does not necessarily denote how frequently the items come up in an average legislative session.

- a. **Aloha Order of Merit:** Section 5-7.6, Hawaii Revised Statutes (HRS), requires the passage of a concurrent resolution before conferring the title of "member of the Aloha order of merit" onto an individual.

Example: House Concurrent Resolution No. 232, Regular Session of 2019.

- b. **Hawaii Medal of Honor:** Section 5-22, HRS, provides that the Hawaii Medal of Honor "shall be awarded solely by a concurrent resolution . . . adopted by both houses of the legislature."

Example: House Concurrent Resolution No. 29, Regular Session of 2014.

- c. **Establishment of investigating committees:** Chapter 21, HRS, authorizes the Legislature to establish investigating committees that have the authority to compel the attendance and testimony of witnesses, compel the production of records, and conduct hearings. Section 21-3, HRS, authorizes the investigating committees to be established by law or by a concurrent or single chamber resolution. The resolution or statute establishing the committee must "state the committee's purposes, powers, duties and duration, the subject matter and scope of its investigatory authority, and the number of its members."

Examples: Example 9-7 on page 313 is an example of a investigating committee established by concurrent resolution. For examples of investigating committees established by single chamber resolutions, see House Resolution No. 164, Regular Session of 2021; and Senate Resolution No. 198, Senate Draft 1, Regular Session of 2020.

- d. **Mandatory health insurance impact assessments:** Section 23-51, HRS, provides that the Legislature generally must request the Auditor to prepare and submit a report assessing the social and financial effects of any legislative measure that "mandates health insurance coverage for specific health services, specific diseases, or certain providers of health care services as part of individual or group health insurance policies" before enacting such a measure.

Section 23-51, HRS, requires the concurrent resolution to reference a legislative bill that has been introduced at the legislature and that includes information identifying the specific health service, disease, or provider that would be covered; the extent of the coverage; target groups that would be covered; limits on utilization, if any; and standards of care.

See also chapter 4, part I, item 26, on page 79 of this manual.

Example: Example 9-8 on page 316.

Caveat. In some instances, the Legislature has passed measures imposing mandatory health insurance coverage without first requesting the Auditor to perform the assessment described in section 23-51, HRS. For example, see section 5 of Act 204, Session Laws of Hawaii 2016, and the explanatory note in Senate Standing Committee Report No. 3043, Regular Session of 2016.

- e. **"Sunrise analysis" for new regulatory measures:** Section 26H-6, HRS, requires the Legislature to request the Auditor to conduct an analysis of new measures that, if enacted, "would subject unregulated professions and vocations to licensing or

other regulatory controls." The referral to the Auditor is done by a concurrent resolution that identifies a specific legislative bill to be analyzed.

Example: Example 9-9 on page 318.

- f. **Approval of leases of state submerged lands:** Section 171-53, HRS, generally requires the prior authorization of the Legislature by concurrent resolution before the Board of Land and Natural Resources may lease state submerged lands and lands beneath tidal waters.

Example: Example 9-10 on page 320.

- g. **Approval of the sale or gift of lands:** Section 171-64.7, HRS, requires the prior approval of the Legislature by concurrent resolution before the sale or gift of most public lands. The concurrent resolution must be adopted by at least a two-thirds majority vote in each chamber. Section 171-64.7(c) requires the concurrent resolution to contain specific information about the land being sold or gifted.

Example: Example 9-11 on page 322.

In addition to the foregoing, there are other statutes providing for the Legislature to approve or disapprove of certain executive agency actions by concurrent resolution. For example, see section 26-56 (disapproval of recommendations by the Commission on Salaries); section 171-50 (disapproval of land exchanges); section 171-58 (approval or disapproval of the disposition of water rights); and section 261-7 (disapproval of certain airport fees), HRS.

3. Studies, Task Forces, and Working Groups

Resolutions are also commonly used to request entities (usually a state agency) to study or collect data on a particular issue and submit a report of its findings to the Legislature. This type of resolution is often adopted when the Legislature has identified an issue or problem but needs additional information, analysis, or recommendations from an entity with relevant subject-matter expertise before making a policy decision. For example, the sample "Be It Resolved" language on page 299 of this chapter requests the Department of Transportation to study flooding and safety issues at a specific highway intersection and asks the Department to report back to the Legislature with a plan to address those issues. See Example 9-1 on page 304 for an additional example. Note the language in both examples clearly identifies the information being requested and asks the relevant department to report back to the Legislature by a specific date.

Sometimes, instead of requesting a single entity to study an issue, the Legislature will establish a task force or working group made up of representatives from multiple entities or interests to study an issue. This is often done when an issue either requires the expertise of multiple agencies or entities or when there are multiple stakeholders with an interest in the topic. Because a task force or working group involves multiple parties, the resolution

must clearly specify the composition of the task force and delineate the responsibilities of the involved parties. Specifically, the resolution should clearly indicate:

- a. Who the members of the task force or working group are and who is responsible for appointing the members. As discussed in chapter 4, part I, item 11, on page 71 of this manual, representatives from specific private entities should be *invited* or *requested to participate* in the task force or working group;
- b. Who will chair the task force or working group;
- c. If there will be task force or working group members who are not government officials or employees, whether the person will be subject to the requirements of chapter 84, HRS (relating to standards of conduct);
- d. If necessary, which public sector agency will be requested to provide administrative support to the task force or working group; and
- e. By what date the task force or working group is requested to submit a report of its findings and recommendations to the Legislature.

For a sample of a resolution establishing a task force, see Example 9-12 on page 325.

Part IV. Certificates

Both the Senate and the House of Representatives use certificates for congratulatory purposes. Certificates may be drafted in the same manner as resolutions through the use of Whereas paragraphs and one Be It Resolved statement (see Example 9-13 on page 328), or they may be in simple paragraph format (see Example 9-14 on page 329). Generally speaking, the preferred certificate writing style of the Senate is the prose (simple paragraph) style of writing, while the House of Representatives uses the resolution (Whereas/Be It Resolved) format as its preferred style. On occasion, the Senate and House of Representatives may also present joint certificates (see Example 9-15 on page 330). Depending on the type of certificate being drafted and the paper size/style guidelines of the respective chamber, there may be constraints on the amount of text that can be placed on a certificate. Accordingly, the clerks of the respective chambers should be consulted with respect to the types of certificates available, the forms required, and any other specific rules or guidelines with respect to certificates.

Caveat. In some instances, congratulatory sentiments may still be conveyed through resolution. Therefore, the drafter should check with the requesting legislator to confirm which type of measure is desired. The drafter should also check the rules of the particular chamber regarding any prohibition on the introduction of congratulatory resolutions.

Example 9-1

HOUSE CONCURRENT RESOLUTION

HOUSE OF REPRESENTATIVES
TWENTY-NINTH LEGISLATURE, 2018
STATE OF HAWAII

H.C.R. NO.

HOUSE CONCURRENT
RESOLUTION

REQUESTING THE DEPARTMENT OF TRANSPORTATION TO STUDY WAYS TO ENCOURAGE ALL POLICE AND FIRE STATIONS IN THE STATE TO HAVE A CERTIFIED CHILD PASSENGER SAFETY TECHNICIAN AVAILABLE TO INSPECT CHILD PASSENGER RESTRAINT SYSTEMS.

1 WHEREAS, Hawaii's child passenger restraint law, codified as
2 section 291-11.5, Hawaii Revised Statutes, requires children under
3 four years of age to be properly restrained in a child passenger
4 restraint system that meets federal motor vehicle safety standards at
5 the time of the system's manufacture; and

6
7 WHEREAS, the child passenger restraint law further requires that
8 children four years of age or older, but less than eight years of age,
9 must be properly restrained in a child safety seat or booster seat
10 that meets federal motor vehicle safety standards, unless the child
11 meets certain exemptions; and

12
13 WHEREAS, persons operating a vehicle in violation of the child
14 passenger restraint law are required to appear in court, attend a
15 four-hour course on child passenger restraint system safety, and pay a
16 fine between \$100 and \$500; and

17
18 WHEREAS, currently, parents who wish to have their child's safety
19 seat or booster seat inspected to ensure that the seat meets the
20 requirements of state law have limited options; and

21
22 WHEREAS, although certain inspection stations offer free car seat
23 inspection services, these stations are limited in number, especially
24 on neighbor islands; and

25
26 WHEREAS, for example, on the island of Hawaii, inspection
27 stations are located only in Hilo, Kailua-Kona, and Kamuela; and

28
29 WHEREAS, on the island of Maui, child seat inspections are only
30 available in Wailuku, Hana, and Lahaina; and

H.C.R. NO.

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WHEREAS, on the island of Kauai, inspection stations are located only in Lihue; and

WHEREAS, the limited number of inspection station locations means that parents often need to make long drives to have safety seats inspected; and

WHEREAS, many other states offer a higher number of inspection locations, typically at neighborhood fire and police stations, thereby ensuring that all residents have convenient access to safety seat or booster seat inspections; and

WHEREAS, the State of Hawaii should examine whether a similar approach would be feasible here; now, therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2018, the Senate concurring, that the Department of Transportation is requested to study ways to encourage all police and fire stations in the State to have a certified child passenger safety technician available to inspect child safety and booster seats; and

BE IT FURTHER RESOLVED that the Department of Transportation is requested to submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the Regular Session of 2019; and

BE IT FURTHER RESOLVED that a certified copy of this Concurrent Resolution be transmitted to the Director of Transportation.

OFFERED BY: _____

Example 9-2

SENATE RESOLUTION

THE SENATE
THIRTY-FIRST LEGISLATURE, 2019
STATE OF HAWAII

S.R. NO.

SENATE RESOLUTION

REQUESTING THE UNITED STATES CONGRESS TO CONSENT TO THE ENACTMENT OF
ACT 80, SESSION LAWS OF HAWAII 2017.

1 WHEREAS, pursuant to section 208 of the Hawaiian Homes Commission
2 Act, 1920, an original lessee of a tract of Hawaiian homestead lands
3 shall be a native Hawaiian; and
4

5 WHEREAS, section 201 of the Hawaiian Homes Commission Act, 1920,
6 defines a "native Hawaiian" as "any descendant of not less than one-
7 half part of the blood of the races inhabiting the Hawaiian Islands
8 previous to 1778"; and
9

10 WHEREAS, pursuant to the existing provisions of section 209(a) of
11 Hawaiian Homes Commission Act, 1920, upon the death of a homestead
12 lessee, the lessee's interest may only vest in the lessee's husband,
13 wife, child, grandchild, brother, or sister if the potential successor
14 is at least one-quarter Hawaiian; and
15

16 WHEREAS, a significant number of marriages occur between people
17 of Hawaiian ancestry and people without Hawaiian ancestry, directly
18 affecting generations of Hawaiians by reducing the native Hawaiian
19 blood quantum; and
20

21 WHEREAS, the requirement that certain successors to a lease must
22 have at least one-quarter blood quantum imposes a significant hardship
23 on those lessees who are unable to assure transfer of lessee rights
24 under the Hawaiian Homes Commission Act, 1920, to a relative of less
25 than one-quarter Hawaiian blood; and
26

27 WHEREAS, this congressionally established blood quantum
28 requirement artificially bifurcates native Hawaiians; and
29

S.R. NO.

1 WHEREAS, a reduction in the required blood quantum for certain
2 successors under the Hawaiian Homes Commission Act, 1920, is long
3 overdue; and
4

5 WHEREAS, the Hawaii State Legislature passed and the Governor of
6 Hawaii approved Act 80, Session Laws of Hawaii 2017, which seeks to
7 amend the Hawaiian Homes Commission Act, 1920, to provide that upon
8 the death of a lessee, the lessee's interest may vest in the lessee's
9 spouse, child, grandchild, brother, or sister if the potential
10 successor is at least one thirty-second Hawaiian; and
11

12 WHEREAS, in accordance with section 4 of the Hawaii Admission Act
13 (Public Law 86-3, 73 Stat. 4), the Hawaiian Homes Commission Act can
14 be amended by the State "only with the consent the of the United
15 States"; thus, the United States Congress is required to consent for
16 Act 80, Session Laws of Hawaii 2017, to become law; now, therefore,
17

18 BE IT RESOLVED by the Senate of the Thirty-first Legislature of
19 the State of Hawaii, Regular Session of 2021, that the United States
20 Congress is requested to consent to the enactment of Act 80, Session
21 Laws of Hawaii 2017; and
22

23 BE IT FURTHER RESOLVED that certified copies of this Resolution
24 be transmitted to the Secretary of the Interior, Majority Leader of
25 the United States Senate, Speaker of the United States House of
26 Representatives, members of Hawaii's congressional delegation,
27 Chairperson of the Hawaiian Homes Commission, and Chairperson of the
28 Board of Trustees of the Office of Hawaiian Affairs.
29
30
31

OFFERED BY: _____

Example 9-3

INVITING THE GOVERNOR TO ADDRESS THE LEGISLATURE

HOUSE OF REPRESENTATIVES
THIRTIETH LEGISLATURE, 2020
STATE OF HAWAII

H.C.R. NO. ²

HOUSE CONCURRENT
RESOLUTION

REQUESTING THE GOVERNOR TO ADDRESS THE LEGISLATURE ASSEMBLED IN JOINT
SESSION.

1 BE IT RESOLVED by the House of Representatives of the Thirtieth
2 Legislature of the State of Hawaii, Regular Session of 2020, the
3 Senate concurring, that the two Houses of the Legislature assemble in
4 Joint Session in the Chambers of the House of Representatives at 10:00
5 a.m. on Tuesday, January 21, 2020, for the purpose of receiving such
6 address or greetings from the Governor of Hawaii as he should be
7 pleased to make; and

8
9 BE IT FURTHER RESOLVED that a duly certified copy of this
10 Concurrent Resolution be transmitted to the Honorable David Y. Ige,
11 Governor of the State of Hawaii.

12
13
14

OFFERED BY: _____

Example 9-4

RECALL OF BILL FROM GOVERNOR

THE SENATE
EIGHTEENTH LEGISLATURE, 1995
STATE OF HAWAII

S.C.R. NO. 309

SENATE CONCURRENT
RESOLUTION

REQUESTING THE GOVERNOR TO RETURN SENATE BILL NO. 1699, SENATE DRAFT
2, TO THE LEGISLATURE TO RECONSIDER ACTION TAKEN.

1 WHEREAS, Senate Bill No. 1699, Senate Draft 2, A BILL FOR AN ACT
2 RELATING TO HOUSING LOAN AND MORTGAGE PROGRAM, was enrolled by the
3 Senate to the Governor on April 12, 1995; and
4

5 WHEREAS, pursuant to Rule 57 of the Rules of the Senate,
6 Eighteenth Legislature, when an error is discovered in a bill prior to
7 its having received the approval of the Governor, the bill may be
8 returned by Concurrent Resolution to the house last considering the
9 bill for proper correction; now, therefore,
10

11 BE IT RESOLVED by the Senate of the Eighteenth Legislature of the
12 State of Hawaii, Regular Session of 1995, the House of Representatives
13 concurring, that the Governor of the State of Hawaii is requested to
14 return Senate Bill No. 1699, Senate Draft 2, to the Senate for proper
15 correction; and
16

17 BE IT FURTHER RESOLVED that a certified copy of this Concurrent
18 Resolution be transmitted to the Governor of the State of Hawaii.
19
20
21

OFFERED BY: _____

Example 9-5

RECALL OF BILL BY ONE HOUSE FROM ANOTHER

HOUSE OF REPRESENTATIVES
_____ LEGISLATURE, 20__
STATE OF HAWAII

H.R. NO.

HOUSE RESOLUTION

REQUESTING THE SENATE TO RETURN HOUSE BILL NO. ____.

1 BE IT RESOLVED by the House of Representatives of the Twenty-
2 fourth Legislature of the State of Hawaii, Regular Session of 20__,
3 that the Senate is requested to return to the House of Representatives
4 H.B. No. _____ for reconsideration; and

5
6 BE IT FURTHER RESOLVED that a certified copy of this Resolution
7 be transmitted to the President of the Senate.

8
9
10

OFFERED BY: _____

Example 9-6

RATIFICATION OF AMENDMENT
TO UNITED STATES CONSTITUTION

THE SENATE
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

S.C.R. NO. 99
S.D. 1
H.D. 1

SENATE CONCURRENT
RESOLUTION

RATIFYING A PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES GIVING THE CONGRESS OF THE UNITED STATES POWER TO LIMIT, REGULATE, AND PROHIBIT THE LABOR OF PERSONS UNDER EIGHTEEN YEARS OF AGE.¹

1 WHEREAS, House Joint Resolution 184, approved by the Sixty-Eighth
2 Congress, First Session (House Joint Resolution 184), reads as
3 follows:

4
5 JOINT RESOLUTION

6
7 Proposing an amendment to the Constitution of the United
8 States.

9
10 Resolved by the Senate and House of Representatives of the
11 United States of America in Congress assembled (two thirds of
12 each House concurring therein), That the following article is
13 proposed as an amendment to the Constitution of the United
14 States, which, when ratified by the legislatures of three-fourths
15 of the several States, shall be valid to all intents and purposes
16 as a part of the Constitution:

17
18 "ARTICLE --.

19
20 "Section 1. The Congress shall have power to limit,
21 regulate, and prohibit the labor of persons under eighteen years
22 of age.

23 "Sec. 2. The power of the several States is unimpaired by this
24 article except that the operation of State laws shall be
25 suspended to the extent necessary to give effect to legislation
26 enacted by the Congress."
27

¹ The whereas paragraphs of this resolution have been abridged for the purpose of brevity.

1 and

2

3 WHEREAS, House Joint Resolution 184 was submitted to the state
4 legislatures for ratification; and

5

6 WHEREAS, ratification of House Joint Resolution 184 stalled after
7 1925, due to an effective campaign to discredit it, including
8 traditional states' rights arguments against increases in the power of
9 the federal government and accusations that the amendment was a
10 communist-inspired plot to subvert the United States Constitution; and

11

12 WHEREAS, by 1937, when the most recent state ratified House Joint
13 Resolution 184, only twenty-eight states had ratified it, which fell
14 short of the required three-fourths threshold required for a
15 constitutional amendment; and

16

17 WHEREAS, the proposal for the constitutional amendment is still
18 outstanding since Congress did not set a time limit for its
19 ratification, and ratification by ten more states is required to add
20 the amendment to the United States Constitution; and

21

22 WHEREAS, fifteen states have rejected and refused to subsequently
23 ratify House Joint Resolution 184, and Hawaii is one of the seven
24 states that have no record of taking action on the proposed
25 constitutional amendment; and

26

27 WHEREAS, federal regulation of child labor in the United States
28 is now provided under the Fair Labor Standards Act of 1938, as
29 amended; however, ratification of the constitutional amendment set
30 forth in House Joint Resolution 184 would put Hawaii on the right side
31 of history; now, therefore,

32

33 BE IT RESOLVED by the Senate of the Thirty-first Legislature of
34 the State of Hawaii, Regular Session of 2021, the House of
35 Representatives concurring, that the Article proposed as an amendment
36 to the Constitution of the United States as set forth in United States
37 House Joint Resolution 184, dated June 2, 1924, is hereby ratified by
38 the Legislature of the State of Hawaii; and

39

40 BE IT FURTHER RESOLVED that certified copies of this Concurrent
41 Resolution be transmitted to the Archivist of the United States,
42 Majority Leader of the United States Senate, Speaker of the United
43 States House of Representatives, members of Hawaii's congressional
44 delegation, and Director of Labor and Industrial Relations.

45

46

47

OFFERED BY: _____

Example 9-7

ESTABLISHMENT OF AN INVESTIGATING COMMITTEE

HOUSE OF REPRESENTATIVES
TWENTY-FIRST LEGISLATURE, 2001
STATE OF HAWAII

H.C.R. NO. 84
H.D. 1

HOUSE CONCURRENT
RESOLUTION

ESTABLISHING A JOINT SENATE AND HOUSE COMMITTEE TO INVESTIGATE
THE STATE'S EFFORTS TO COMPLY WITH THE FELIX CONSENT
DECREE.

1 BE IT RESOLVED by the House of Representatives of the Twenty-
2 first Legislature of the State of Hawaii, Regular Session of 2001, the
3 Senate concurring, that the Senate and House of Representatives hereby
4 jointly establish an investigative committee pursuant to chapter 21,
5 Hawaii Revised Statutes, to investigate the State's compliance with
6 the Felix Consent Decree; and
7

8 BE IT FURTHER RESOLVED that the purpose and the duties of the
9 committee and the subject matter and scope of its investigatory
10 authority shall be to investigate, gather information, and make
11 recommendations to the Senate and House of Representatives concerning
12 any matter relating to the Felix Consent Decree; and
13

14 BE IT FURTHER RESOLVED that the committee shall have every power
15 and function allowed to an investigating committee by law, including
16 without limitation the power to:
17

- 18 (1) Adopt rules for the conduct of its proceedings;
19
20 (2) Issue subpoenas requiring the attendance and testimony of
21 witnesses and subpoenas duces tecum requiring the
22 production of books, documents, records, papers, or other
23 evidence in any matter pending before the committee;
24
25 (3) Hold hearings appropriate for the performance of its
26 duties, at such times and places as the committee
27 determines;
28

* The whereas paragraphs of this resolution have been omitted for the purpose of brevity.

- 1 (4) Administer oaths and affirmations to witnesses at hearings
- 2 of the committee;
- 3
- 4 (5) Report or certify instances of contempt as provided in
- 5 Section 21-14 of the Hawaii Revised Statutes;
- 6
- 7 (6) Employ professional, technical, clerical, or other staff
- 8 and expend such funds appropriated for Senate operating
- 9 expenses for 2001 as necessary for the proper performance
- 10 of its duties; and
- 11
- 12 (7) Exercise all other powers specified under Chapter 21 of the
- 13 Hawaii Revised Statutes with respect to investigating
- 14 committees; and
- 15

16 BE IT FURTHER RESOLVED that the committee shall be appointed by
 17 the Senate President and the Speaker of the House of Representatives
 18 and consist of eight members, two of whom shall be appointed by the
 19 Senate President and the Speaker of the House of Representatives to
 20 serve as the committee co-chairs; and

21
 22 BE IT FURTHER RESOLVED that the composition of the committee with
 23 regard to majority and minority members shall be on a proportional
 24 basis; and

25
 26 BE IT FURTHER RESOLVED that the investigative committee shall
 27 provide by rule:

- 28
- 29 (1) For the submission, by a witness's own counsel and counsel
- 30 for another individual or entity about whom the witness has
- 31 devoted substantial or important portions of the witness's
- 32 testimony, of written questions to be asked of the witness
- 33 by the Chairs; and
- 34
- 35 (2) For the submission of proposed questions at a hearing in
- 36 accordance with Section 21-11(b), Hawaii Revised Statutes;
- 37
- 38 (3) That each witness intended to be called be given ten days
- 39 notice of:
- 40
- 41 (A) The date and time of the witness's appearance;
- 42
- 43 (B) A short plain statement of the areas to be inquired
- 44 into with respect to that witness's anticipated
- 45 testimony; and
- 46
- 47 (C) A list of or copies of the principal documents about
- 48 which that witness may be questioned;

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provided that these requirements shall not limit the investigative committee's discretion to inquire into related matters. The rule may provide that the Chairs may waive the ten days notice if the witness so agrees; and

- (4) That a draft report of the investigative committee's findings, conclusions, or both, concerning any matter that is the subject of its hearings shall be made available to all those entities or persons who were the subjects of or who were witnesses who testified at any hearing. Any person or entity to whom a draft report is made available shall be given a period of no less than fourteen days within which to make written responses to the draft findings, conclusions, or both. The written responses, if any, shall be included as an appendix to the final report of the investigative committee; and

BE IT FURTHER RESOLVED that the committee is authorized to exercise its powers continuously throughout the 2001 Regular Session, the interim between the 2001 and 2002 Regular Sessions, and shall thereafter be dissolved unless further extended by the Senate and the House of Representatives; and

BE IT FURTHER RESOLVED that the Senate President and the Speaker of the House of Representatives, from time to time, may refer to the investigative committee specific matters that are within the scope of the committee's jurisdiction, and that the committee shall work in cooperation with the President and Speaker for the purposes stated in this Resolution; and

BE IT FURTHER RESOLVED that the committee shall submit its written findings and recommendations to the Senate and House of Representatives twenty days prior to the convening of the Regular Session of 2002; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the President of the Senate, Speaker of the House of Representatives, Governor, Superintendent of Education, and Director of Health.

OFFERED BY: _____

Example 9-8

MANDATORY HEALTH INSURANCE IMPACT ASSESSMENT

THE SENATE
TWENTY-NINTH LEGISLATURE, 2018
STATE OF HAWAII

S.C.R. NO. 83
S.D. 1
H.D. 1

SENATE CONCURRENT
RESOLUTION

REQUESTING THE AUDITOR TO ASSESS BOTH THE SOCIAL AND FINANCIAL EFFECTS OF PROPOSED MANDATED HEALTH INSURANCE COVERAGE THAT REQUIRES INSURERS, HOSPITAL AND MEDICAL SERVICES PLANS, AND HEALTH MAINTENANCE ORGANIZATIONS TO PROVIDE COVERAGE FOR MEDICAL PROCEDURES TO ELIMINATE OR PROVIDE MAXIMUM FEASIBLE TREATMENT OF PORT-WINE STAINS.

1 WHEREAS, a port-wine stain is a discoloration of the human skin
2 caused by a vascular anomaly, namely a capillary malformation in the
3 skin; and

4
5 WHEREAS, a port-wine stain is usually a birthmark but in rare
6 cases it can develop in early childhood; and

7
8 WHEREAS, studies have recorded an incidence of three to five
9 cases per thousand newborn babies; and

10
11 WHEREAS, early stains are usually flat and pink in appearance but
12 may deepen to a dark red or purplish color as the child matures; and

13
14 WHEREAS, port-wine stains ordinarily persist throughout life; and

15
16 WHEREAS, port-wine stains appear most often on the face but can
17 appear anywhere on the body, particularly on the neck and upper trunk;
18 and

19
20 WHEREAS, if the port-wine stain is on the face or other highly
21 visible part of an affected person's body, its presence can also cause
22 emotional and social problems for that person; and

23
24 WHEREAS, in adulthood, thickening of the lesion or the
25 development of small lumps may occur; and

26
27 WHEREAS, in the absence of successful treatment, hypertrophy,
28 which is increased tissue mass of the stain, may cause problems later

1 in life, such as loss of proximate organ function, especially near the
2 eye or mouth; bleeding; and increasing disfigurement; and

3
4 WHEREAS, lesions on or near the eyelid can be associated with
5 glaucoma; and
6

7 WHEREAS, when a port-wine stain proliferates around the eyelid,
8 it may cause ectropion, which is the downward pulling of the lower
9 eyelid, which may lead to corneal abrasion and loss of vision; and
10

11 WHEREAS, pursuant to section 23-51, Hawaii Revised Statutes,
12 before any legislative measure that mandates health insurance coverage
13 for specific health services, specific diseases, or certain providers
14 of health care services as part of individual or group health
15 insurance policies, can be considered, concurrent resolutions shall be
16 passed that designate a specific legislative bill for the Auditor to
17 review and prepare a report for submission to the Legislature that
18 assesses both the social and financial effects of the proposed
19 mandated coverage under that legislative bill; now, therefore,
20

21 BE IT RESOLVED by the Senate of the Twenty-ninth Legislature of
22 the State of Hawaii, Regular Session of 2018, the House of
23 Representatives concurring, that the Auditor is requested to assess
24 both the social and financial effects of the proposed mandated health
25 insurance coverage under H.B. No. 1705, H.D. 1, introduced in the
26 Regular Session of 2018, that requires insurers, hospital and medical
27 services plans, and health maintenance organizations to provide
28 coverage for medical procedures to eliminate or provide maximum
29 feasible treatment of port-wine stains; and
30

31 BE IT FURTHER RESOLVED that the Auditor is requested to submit a
32 report of its findings and recommendations, including any proposed
33 legislation, to the Legislature no later than twenty days prior to the
34 convening of the Regular Session of 2019; and
35

36 BE IT FURTHER RESOLVED that a certified copy of this Concurrent
37 Resolution be transmitted to the Auditor.
38
39
40

OFFERED BY: _____

Example 9-9

REQUEST FOR A SUNRISE ANALYSIS

THE SENATE
TWENTY-NINTH LEGISLATURE, 2018
STATE OF HAWAII

S.C.R. NO. 27
S.D. 1

SENATE CONCURRENT
RESOLUTION

REQUESTING THE AUDITOR TO CONDUCT A SUNRISE REVIEW OF THE LICENSURE
AND REGULATION OF HOME INSPECTORS.

1 WHEREAS, S.B. No. 2403, introduced during the Regular Session of
2 2018, proposes the licensure and regulation of home inspectors; and
3

4 WHEREAS, persons who act or hold themselves out as home
5 inspectors are not presently required to be licensed, certified,
6 registered, or otherwise regulated by the State; and
7

8 WHEREAS, home inspectors render oral or written opinions on the
9 current condition of the major systems and components in condominiums,
10 townhouses, single family residences, or commercial properties, which
11 can have a significant impact on a buyer's decision to purchase a
12 home; and
13

14 WHEREAS, section 26H-6, Hawaii Revised Statutes, requires new
15 measures, subjecting unregulated professions and vocations to
16 licensing or other regulatory controls, to be referred to the Auditor
17 for analysis; now, therefore,
18

19 BE IT RESOLVED by the Senate of the Twenty-ninth Legislature of
20 the State of Hawaii, Regular Session of 2018, the House of
21 Representatives concurring, that the Auditor is requested to conduct a
22 sunrise review of the licensure and regulation of home inspectors, as
23 proposed by S.B. No. 2403, Regular Session of 2018; and
24

25 BE IT FURTHER RESOLVED that the Auditor is further requested to
26 submit findings and recommendations, including any proposed
27 legislation, to the Legislature no later than twenty days prior to the
28 convening of the Regular Session of 2019; and
29

1 BE IT FURTHER RESOLVED that a certified copy of this Concurrent
2 Resolution be transmitted to the Auditor.

3
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OFFERED BY: _____

Example 9-10

APPROVAL OF LEASES OF STATE SUBMERGED LANDS

THE SENATE
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

S.C.R. NO. 14

SENATE CONCURRENT
RESOLUTION

AUTHORIZING THE ISSUANCE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT KANEOHE, KOOLAUPOKO, OAHU, FOR THE EXISTING STORM DRAIN, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1 WHEREAS, portions of the existing storm drain fronting the
2 property identified as Tax Map Key: (1) 4-4-021:038, Kaneohe,
3 Koolaupoko, Oahu, were placed on state submerged lands; and
4

5 WHEREAS, around April 2013, the Department of Land and Natural
6 Resources' Office of Conservation and Coastal Lands worked with the
7 City and County of Honolulu to resolve the storm drain encroachment;
8 and
9

10 WHEREAS, the Office of Conservation and Coastal Lands indicated
11 they had no objection to a perpetual non-exclusive easement to resolve
12 the storm drain encroachment; and
13

14 WHEREAS, at its meeting of August 23, 2013, under agenda item
15 D-10, the Board of Land and Natural Resources approved a grant of a
16 perpetual non-exclusive easement to resolve the storm drain
17 encroachment, at gratis consideration; and
18

19 WHEREAS, the total encroachment area was determined to be 679
20 square feet as reviewed and approved by the Department of Accounting
21 and General Services' Survey Division; and
22

23 WHEREAS, section 171-53, Hawaii Revised Statutes, requires the
24 prior approval of the Governor and prior authorization of the
25 Legislature by concurrent resolution to lease state submerged lands;
26 now, therefore,
27

1 BE IT RESOLVED by the Senate of the Thirty-first Legislature of
2 the State of Hawaii, Regular Session of 2021, the House of
3 Representatives concurring, that the Board of Land and Natural
4 Resources is hereby authorized to issue a perpetual, non-exclusive
5 easement covering a portion of state submerged lands fronting the
6 property identified as Tax Map Key: (1) 4-4-021:038, Kaneohe,
7 Koolaupoko, Oahu, for the existing storm drain, and for use, repair,
8 and maintenance of the existing improvements constructed thereon
9 pursuant to section 171-53, Hawaii Revised Statutes; and
10

11 BE IT FURTHER RESOLVED that a certified copy of this concurrent
12 resolution be transmitted to the Chairperson of the Board of Land and
13 Natural Resources.
14
15
16

OFFERED BY: _____

Example 9-11

APPROVAL OF THE SALE OR GIFT OF LANDS

THE SENATE
TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAII

S.C.R. NO. 25

SENATE CONCURRENT
RESOLUTION

APPROVING THE SALE OF THE LEASED FEE INTEREST IN 94-946 MEHEULA
PARKWAY, NO. 264, MILILANI, HAWAII.

1 WHEREAS, section 171-64.7, Hawaii Revised Statutes, requires the
2 prior approval of the Legislature by concurrent resolution to sell
3 certain state lands in fee simple; and
4

5 WHEREAS, section 171-64.7(c), Hawaii Revised Statutes, states
6 that "[t]he concurrent resolution shall contain the following
7 information:
8

- 9 (1) The specific location and size in square feet or in other
10 precise measure of the parcels of land to be sold or given;
11
12 (2) The appraisal value of the land to be sold or given;
13
14 (3) The names of all appraisers performing appraisals of the
15 land to be sold or given;
16
17 (4) The date of the appraisal valuation;
18
19 (5) The purpose for which the land is being sold or given;
20
21 (6) A detailed summary of any development plans for the land to
22 be sold or given; and
23
24 (7) A statement of whether the land is, or is not, land that
25 was classed as government or crown lands previous to
26 August 15, 1895, or was acquired by the State in exchange
27 for such lands, and a detailed explanation of how the state
28 department or agency made this determination; and
29

30 WHEREAS, a draft of the concurrent resolution for the prior
31 approval of a sale or gift of land shall also be submitted to the
32 office of Hawaiian affairs at least three months prior to the

1 convening of a regular or special session of the legislature to allow
2 the office to determine whether the land was classed as government or
3 crown lands previous to August 15, 1895, or was acquired by the State
4 in exchange for such lands"; and

5
6 WHEREAS, pursuant to section 171-64.7(e), Hawaii Revised
7 Statutes, prior to finalizing any proposal for the sale or gift of
8 lands and prior to the submission of the concurrent resolution to the
9 Legislature, an informational briefing on the proposed sale or gift of
10 lands shall be held in the community where the land to be sold or
11 given is located; and

12
13 WHEREAS, the Hawaii Housing Finance and Development Corporation
14 (the "Corporation") desires to sell the leased fee interest in 94-946
15 Meheula Parkway, No. 264, Mililani, Hawaii, and provides the following
16 information pursuant to section 171-64.7, Hawaii Revised Statutes:

- 17
18 (1) The property is an apartment unit in the Nahoia Apartments
19 condominium built in 1975 and is identified as a 764 square
20 foot apartment unit, TMK No. 1-9-4-5-34-131;
21
22 (2) The leased fee interest in this property was appraised to
23 have a fair market value of \$45,100;
24
25 (3) The property was appraised by Harlin Young & Co., Ltd.;
26
27 (4) The appraisal valuation date is August 5, 2016;
28
29 (5) The primary purpose for the sale of this property is to
30 convey the leased fee interest to its current leasehold
31 owner;
32
33 (6) There is no development plan for this unit, which is a
34 residence; and
35
36 (7) As of August 15, 1895, the property was a portion of Royal
37 Patent No. 5732, Land Commission Award No. 8241 to Ioane
38 Ii, and therefore private land; the Corporation's
39 predecessor agency, the Hawaii Housing Authority, acquired
40 title to the property through warranty deed of Mililani
41 Town, Inc., dated October 7, 1974, filed as Land Court
42 Document No. 698788; and this was determined by a search of
43 the title records by Title Guaranty of Hawaii on August 26,
44 2015; and

45
46 WHEREAS, the Corporation duly submitted a draft of the Concurrent
47 Resolution to the Office of Hawaiian Affairs on October 3, 2016, more

1 than three months prior to the opening date of the Regular Session of
2 2017; and

3
4 WHEREAS, the Corporation duly conducted a public informational
5 briefing on the sale of this parcel on August 11, 2016, at the
6 Mililani High School cafetorium, Mililani, Hawaii, following
7 publication of notice of the briefing in the Honolulu Star-Advertiser
8 newspaper on August 3 and 5, 2016; and

9
10 WHEREAS, no objection to the proposed sale was received at the
11 public informational briefing; now, therefore,

12
13 BE IT RESOLVED by the Senate of the Twenty-ninth Legislature of
14 the State of Hawaii, Regular Session of 2017, the House of
15 Representatives concurring, that the sale of the leased fee interest
16 in 94-946 Meheula Parkway, No. 264, Mililani, Hawaii, TMK No.
17 1-9-4-5-34-131, is hereby approved; and

18
19 BE IT FURTHER RESOLVED that a certified copy of this Concurrent
20 Resolution be transmitted to the Executive Director of the
21 Corporation.

22
23
24

OFFERED BY: _____

Example 9-12

ESTABLISHING A TASK FORCE

HOUSE OF REPRESENTATIVES
THIRTIETH LEGISLATURE, 2019
STATE OF HAWAII

H.C.R. NO. 109

HOUSE CONCURRENT
RESOLUTION

REQUESTING THE ESTABLISHMENT OF A TASK FORCE TO STUDY THE FEASIBILITY
OF LEGALIZING SPORTS GAMBLING.

1 WHEREAS, in 1992, Congress passed the Professional and Amateur
2 Sports Protection Act to prohibit certain state-sanctioned sports
3 gambling; and
4

5 WHEREAS, tens of thousands of Hawaii residents wager on the
6 outcome of sporting events through illegal websites that are not
7 subject to regulation or taxation; and
8

9 WHEREAS, it is estimated that online gambling by Hawaii residents
10 generates tens of millions of dollars for gambling organizations
11 without any benefit to the State; and
12

13 WHEREAS, in 2014, New Jersey enacted a law exempting casinos,
14 gambling houses, and race tracks in that state from sports wagering
15 prohibitions, effectively legalizing sports gambling; and
16

17 WHEREAS, the National Collegiate Athletic Association and other
18 sports organizations alleged in *Christie v. National Collegiate*
19 *Athletic Association* that the New Jersey law violated the Professional
20 and Amateur Sports Protection Act; and
21

22 WHEREAS, the United States Court of Appeals for the Third Circuit
23 held that the New Jersey law violates the Professional and Amateur
24 Sports Protection Act; and
25

26 WHEREAS, the parties representing the State of New Jersey
27 appealed to the United States Supreme Court and on December 4, 2017,
28 the court held oral arguments; and
29

30 WHEREAS, on May 14, 2018, the United States Supreme Court
31 reversed the decision of the United States Court of Appeals for the

1 Third Circuit, effectively allowing states to authorize sports
2 gambling; now, therefore,
3

4 BE IT RESOLVED by the House of Representatives of the Thirtieth
5 Legislature of the State of Hawaii, Regular Session of 2019, the
6 Senate concurring, that the Director of Commerce and Consumer Affairs
7 is requested to establish a task force to study the feasibility of
8 legalizing sports gambling in Hawaii; and
9

10 BE IT FURTHER RESOLVED that the task force consist of the
11 following members:
12

- 13 (1) The Director of Commerce and Consumer Affairs, or the
14 Director's designee, who is requested to serve as the
15 chairperson of the task force;
16
- 17 (2) The Director of Business, Economic Development, and
18 Tourism, or the Director's designee;
19
- 20 (3) The Attorney General, or the Attorney General's designee;
21
- 22 (4) The Chief Information Officer, or the Chief Information
23 Officer's designee;
24
- 25 (5) An attorney in private practice with knowledge of sports
26 gambling law, to be invited by the Governor to participate;
27
- 28 (6) A member of the public with knowledge of sports gambling,
29 to be invited by the President of the Senate to
30 participate; and
31
- 32 (7) A member of the public with knowledge of sports gambling,
33 to be invited by the Speaker of the House of
34 Representatives to participate; and
35

36 BE IT FURTHER RESOLVED that the Director of Commerce and Consumer
37 Affairs may invite other individuals with relevant knowledge or
38 experience to be members of the task force; and
39

40 BE IT FURTHER RESOLVED that no member be made subject to chapter
41 84, Hawaii Revised Statutes, solely because of that member's
42 participation as a member of the task force; and
43

44 BE IT FURTHER RESOLVED that the Department of Commerce and
45 Consumer Affairs is requested to provide administrative support to the
46 task force; and
47

1 BE IT FURTHER RESOLVED that the task force is requested to submit
2 a report of its findings and recommendations, including any proposed
3 legislation, to the Legislature no later than twenty days prior to the
4 convening of the Regular Session of 2020; and

5
6 BE IT FURTHER RESOLVED that certified copies of this Concurrent
7 Resolution be transmitted to the Governor; Director of Commerce and
8 Consumer Affairs; Director of Business, Economic Development, and
9 Tourism; Attorney General; and Chief Information Officer.

10
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12

OFFERED BY: _____

Example 9-13

HOUSE CERTIFICATE

COMMENDING _____ (NAME) _____ ON ATTAINING
RANK OF EAGLE SCOUT

WHEREAS, the Boy Scouts of America have established a proud tradition of service to the boys and young men of Hawaii, encouraging them in the development of physical fitness, in the building of their personal and moral character, and by training and involving them in the responsibilities of citizenship; and

WHEREAS, the Boy Scouts, to promote these ideals, encourage their scouts to always strive toward the highest goals and to fully develop and apply their talents through the earning of merit badges; and

WHEREAS, the prestigious Eagle Award is the highest distinction that a scout can earn, requiring not only the attainment of 21 merit badges, but also the demonstrated qualities of leadership, dedication to community and country, personal initiative and perseverance, a willingness to help others, and the upholding of the scout oath and scout laws; and

WHEREAS, while the Eagle Award has been presented at the Palolo Troop 141 Eagle Court of Honor to _____ (Name) _____ for his personal achievements and performance, it is also recognized that this honor shines upon Scout Master _____ (Name) _____, Assistant Scout Masters _____ (Name) _____ and _____ (Name) _____, without whose support and encouragement this level of excellence could not have been attained; now, therefore,

BE IT RESOLVED by the House of Representatives of the _____ Legislature of the State of Hawaii, Regular Session of 20____, that this body hereby congratulates and commends _____ (Name) _____ for attaining the rank of Eagle Scout and wishes him continued success in all his future endeavors.*

* This example assumes that the certificate is being awarded during the legislative session. If the certificate is being awarded during interim (except right after a general election), the wording of the final paragraph would read instead, "The House of Representatives of the _____ Legislature of the State of Hawaii hereby..." If the certificate is awarded during the interim right after a general election, the paragraph would read, "The House of Representatives of the State of Hawaii hereby..."

Example 9-14

SENATE CERTIFICATE

HONORING MERLE K. LAI FOR TWENTY YEARS OF DISTINGUISHED PUBLIC SERVICE

Councilwoman Merle K. Lai, a Kamehameha Schools and University of Hawaii graduate, began her career in public service in 1972 as Administrative Assistant and Information and Complaints Officer for Mayor Shunichi Kimura. In 1975 she was appointed to fill an unexpired term of a departing County Council member and went on to win four consecutive general elections. During her tenure as a Councilwoman, Merle K. Lai's style of leadership has been a model for women in Hawaii politics.

As a champion of human services and public safety issues, Councilwoman Lai has amassed numerous accolades and was named as an Outstanding Young Woman of America from 1975-1978 and listed in "Who's Who of American Women" and the "World Who's Who of Women."

Merle K. Lai is retiring on December 7, 1992 after twenty years of exemplary public service and will be honored on October 17, 1992 at a Testimonial Luncheon sponsored by U.S. Congresswoman Patsy T. Mink and Councilwoman Helene H. Hale. The Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, congratulates Merle K. Lai for her years of meritorious service and wishes her prosperity and happiness in all her future endeavors.

Example 9-15

JOINT CERTIFICATE

**THE HAWAII STATE LEGISLATURE
OBSERVES THE
REPUBLIC OF CHINA'S
NINETY-NINTH CELEBRATION OF NATIONAL DAY**

The Republic of China (ROC) was founded in 1912, the work of Dr. Sun Yat-Sen and a legion of followers who believed in the importance of a free, modern, and democratic nation. When the ROC government relocated to Taiwan in 1949, Taiwan successfully created what some consider "Taiwan miracles," both politically and economically.

The people of the Republic of China (Taiwan) and Hawai'i share many historical and cultural bonds. Many of Hawai'i's residents trace their roots to China, and those ties have been strengthened in recent years through increased business and trade, travel, and cultural and educational exchange. In addition, as a young man, Dr. Sun Yat Sen attended 'Iolani School in Hawai'i. Since its inception, the Taipei Economic and Cultural Office in Honolulu has contributed in many ways to this international friendship, and our citizens can look forward to a long and harmonious partnership through their praiseworthy efforts. A celebration to commemorate this occasion will be held on October 7, 2010 at the Hilton Hawaiian Village.

It is with great pleasure that the Twenty-Fifth Legislature of the State of Hawai'i, joins in the observance of the ninety-ninth National Day of the Republic of China, on October 10, 2010, and extends its best wishes to the citizens of that nation.

Chapter 10

COMMITTEE REPORTS

Part I. Generally

A committee report accompanies each measure that is reported out of a standing committee or conference committee. (Each chamber creates standing committees for major subject or program areas, while conference committees are appointed by each chamber to resolve the differences that remain between the House and Senate versions of a measure after that measure has passed each chamber.) The majority of committee reports relate to measures, such as bills or resolutions, reported out of standing committees or conference committees. However, there are other types of committees, such as special, interim, and investigating committees and, therefore, committee reports for other purposes, as noted in part II beginning on page 332 of this chapter.

Although there are no statutory or constitutional requirements with respect to the content or format of a committee report, the official rules of procedure biennially adopted by the respective chambers of the Legislature address reporting requirements on matters referred to the respective chamber's committees. These rules are often supplemented and elaborated upon through policy and procedure memoranda issued by each chamber's leadership. The rules of each chamber differ, thus, the drafter should consult the current version of the appropriate chamber's rules for further guidance concerning committee reports.

Generally, the rules of each chamber require that a committee report state findings of fact and a conclusion based thereon, and a distinct recommendation as to the disposal of the matter.¹ Ideally, the report should state the purpose of the measure as received by the committee, explain the legislative intent² behind the measure if possible, and clearly describe any proposed amendments to the measure by the committee.

As a practical matter, committee reports should be well-organized and simply written, using relatively short sentences and paragraphs. Given the workload of drafting agencies and the time constraints built into the legislative calendar, committee reports tend to be brief and to-the-point without sacrificing essential information necessary to understand the purpose of a measure and the action taken by the committee. Care should be taken to ensure careful and accurate drafting, since the courts may depend on committee reports to determine the Legislature's intent in adopting a specific law or to assist the court in interpreting it. Committee reports may also provide similar assistance or guidance to executive branch agencies that implement and administer state law.

¹ See 2021-2022 Rules of the House of Representatives (House Rule) Rule 11.7(2) and 2021-2022 Rules of the Senate (Senate Rule) Rule 25(2).

² For example, House Rule 11.7(3) *requires* a standing committee report recommending a measure for passage to "clearly state the legislative intent and purpose of the measure." See 2021-2022 Rules of the House of Representatives.

Part II. Types of Committee Reports

1. Standing Committee Reports

Standing committee reports are prepared for all measures heard by and reported out of a standing committee or committees. Due to sheer volume of bills and resolutions, a standing committee report will be the most common committee report that will be requested of a drafter. See Examples 10-2 (page 345) and 10-3 (page 347) for standing committee reports on bills.

2. Conference Committee Reports

If a measure is referred to and reported out of a conference committee, a conference committee report is prepared. Generally, but not always, the chamber in which the measure originated will be responsible for preparing the conference committee report. The format for conference committee reports differs slightly from a standing committee report, depending upon whether the originating chamber is the Senate or the House of Representatives. The differences are in the addressee, salutation, and signature lines. In a conference committee report, the name of the presiding officer of the originating chamber appears as the first addressee at the top of the first page; the presiding officer of the non-originating chamber will be the second addressee. The names and signature lines of the originating chamber's conference chair or co-chairs appointed to the conference committee appear on the right-hand side of the last page of the committee report; the names and signature lines of the non-originating chamber's conference chair or co-chairs will appear on the left-hand side. See Examples 10-4 (page 349) and 10-5 (page 351).

Caveat. If a measure is returned to the Legislature because it was vetoed by the Governor, another conference committee report is required if the Legislature intends to amend the measure to address the objections of the Governor. In that case, the language in the title paragraph will be slightly different. See Example 10-6 on page 353.

3. Advice and Consent

Various constitutional and statutory provisions provide for gubernatorial appointments to executive departments, boards, and commissions, subject to the advice and consent of the Senate. These appointments are transmitted to the Senate by the Governor via a Governor's Message. After consideration by the appropriate subject matter standing committee or committees, a standing committee report is transmitted to the full Senate with a recommendation whether or not to advise and consent to the appointment. See Examples 10-7 (page 355), 10-8 (page 358), and 10-10 (page 364).

Caveat. The Senate also consents to judicial appointments by the Governor to the office of the Chief Justice, supreme court, intermediate appellate court, and circuit courts and for appointments by the Chief Justice to the district court. Senate consideration of judicial appointments are reported out with a recommendation whether or not to consent. Due to the wording of the

constitutional provision that empowers the Senate with its consent authority over judicial nominations, the word "advise" is not included in a committee report on a judicial nominee. See Article VI, Section 3, of the Hawaii State Constitution and Example 10-9 on page 361.

4. Committee of the Whole Reports

Although seldom used, either the Senate or the House of Representatives may refer a bill to the Committee of the Whole. A Committee of the Whole refers to an entire legislative chamber sitting as one committee to consider a measure. Current House or Senate rules, as appropriate, should be consulted to determine any special guidelines to follow in drafting a committee of the whole report. See Example 10-11 on page 366.

5. Dissenting or Minority Reports

Also rarely used in recent years, a committee report in opposition to the recommendation of the majority of the committee may be submitted as a dissent to a standing or conference committee report, or as a minority report. See Examples 10-12 (page 368) and 10-13 (page 370).

6. Special, Interim, and Investigating Committees

House and Senate rules provide for periodic appointment of special and interim committees to consider and report on special or temporary matters or to accomplish specific objectives. Committees may also be established as joint committees of the House of Representatives and the Senate. The Legislature also may establish investigating committees pursuant to chapter 21, Hawaii Revised Statutes. These committees report upon the specific matter referred to them, usually within a prescribed time. They may also issue periodic reports.

The format and content of a special, interim, or investigating committee report may differ substantially depending on the specific matters that are referred to the committee. Accordingly, drafters should consult with the bill, resolution, memorandum, or other document that establishes the committee as well as legislative leadership, as appropriate, to determine the report's specific format or content.

For an example, see Special Committee Report No. 1, submitted on December 27, 2006, to the Legislature by the Joint Legislative Committee on Family Caregiving, as directed by Act 285, Session Laws of Hawaii 2006.³ Additional examples of special committee reports may be found on the Hawaii State Legislature's website.⁴

³ Available at capitol.hawaii.gov/session2007/senate/journal/Senate_Journal_2007_Committee_Reports.pdf

⁴ *Special Studies*, HAWAII STATE LEGISLATURE, <https://www.capitol.hawaii.gov/specialstudies.aspx> (last visited June 30, 2022).

Part III. Components of a Committee Report

Although the specific format and content of a committee report may differ depending upon the type of report being drafted, all committee reports (whether standing, conference, special, etc.) generally contain, at a minimum, the following components:

- a heading
- an addressee or addressees and salutation
- the title paragraph
- a finding or discussion of the purpose or issue at hand
- the recommendation of the committee for further action
- a closing
- signatures (usually that of the committee chairs or co-chairs)

In addition, if a measure is amended by the committee, the committee report must include a statement of the amendments proposed by the committee. Depending upon the nature of the issue involved in a measure being reported out, it may also be useful to include limited findings that support the amendments. Finally, in many instances, a list of agencies, organizations, and individuals who submitted testimony on the measure is included in the committee report. Each chamber has its own rules and policies on the inclusion of testifier lists, and the most current version of these should be consulted to ensure compliance.

In many cases, special, investigating, and interim committees will have been appointed to engage in fact-finding. Accordingly, the reports made by these appointed committees may be required to include express findings and conclusions, in addition to the recommendations for action.

The Legislature's computer drafting program used by the various legislative drafting agencies contains templates with boilerplate language for the drafting of standing committee reports, conference committee reports for both the House and the Senate, and Senate standing committee reports with respect to appointments requiring the advice and consent of the Senate (or in the case of judicial appointments, the consent of the Senate). These templates have standardized the format of committee reports, with some slight variations depending upon whether it is a House or Senate document. After a drafter enters the number of a measure or a Governor's Message and indicates, if applicable, whether a measure is to be amended, the templates automatically generate the heading; addressee or addressees and salutation; the title paragraph; the boilerplate language for the recommendation of the committee for further action; a closing; and the names and signature lines for the applicable committee chairs or co-chairs. However, even with the use of boilerplate language, errors may occur. Thus, the language should be checked carefully to ensure that the measure number, including any draft numbers, and the referral committee or committees are

correctly identified throughout. If it is a joint referral, the verbs should agree with the use of the plural "committees" throughout the report and the recommendation paragraph should be consistent with the action recommended by the committee or committees.

The use of capitalization in committee reports is similar to that used in resolutions in that names of state and county agencies and officials should be capitalized. Also similar to the convention used in resolutions, the word "percent" is used instead of "per cent."

Example 10-1 on page 344 provides an outline of the various components of a committee report. Additional explanations of some of these components are provided below.

1. Heading

This boilerplate information appears at the top right-hand corner of the first page and generally indicates the type of committee, the committee report number (left blank by the drafter and filled in when filed with the respective chamber's clerk), and the measure number being reported out of committee, if applicable.

2. Title Paragraph

This paragraph is boilerplate language that identifies the number and full title of the measure heard and indicates the committee or committees reporting out the measure.

Example:

Your Committee on Judiciary & Hawaiian Affairs, to
which was referred H.B. No. 199 entitled:
"A BILL FOR AN ACT RELATING TO ELECTION
PROCLAMATIONS,"
begs leave to report as follows:

3. Purpose Paragraph

This paragraph or paragraphs should set forth the purpose of the measure *as received by the committee*, even if the committee subsequently changes the purpose by amending the measure. If amendments proposed by the committee change the purpose of the measure, the amended purpose should be noted in the *amendment paragraph*, which should also describe the amendments to the measure that are being proposed by the committee.

Caveat. If a bill's purpose has been changed by a committee's amendments, check the bill's title to ensure that the contents of the amended bill are still within the scope of its title. A bill's title should not be changed after the bill is introduced. See discussion regarding bill titles in chapter 2, part II, item 2, on page 7 of this manual.

The "purpose" statement is sometimes the most challenging part of the committee report to draft, particularly for a bill. The focus should be on the intent of the measure, rather than on specific statutory changes or other action proposed by the bill. Thus, the purpose statement should be general enough so as not to bog-down the reader in detail, but it must also be something more specific than a restatement of the bill's title. The purpose statement is often most useful if kept to a one-sentence paragraph, usually two to three lines in length, so as not to overwhelm or confuse the reader. As a practical matter, sometimes a bill is so complex, it may be advisable to craft the purpose statement so that it encompasses the general intent, and then follow the statement with a subsequent paragraph that uses an enumerated list to more specifically detail the bill's purpose.

Example:

The purpose and intent of this measure is to improve the development, planning, and construction of public schools.

Specifically, this measure:

- (1) Establishes the School Facilities Agency to be responsible for public school capital improvement projects;
- (2) Establishes the School Facilities Board to oversee the agency; and
- (3) Transfers to the agency certain Department of Education functions related to construction.

If there is more than one purpose to a bill, one of two approaches may be used. First, if one purpose appears to be more important than another, focus on the more important purpose as "the" purpose of the bill, and explain any other secondary purposes in the next paragraph. See Example 10-14 on page 372. Alternatively, it may be possible to draft a more general purpose statement that reflects the multi-purpose nature of the bill, followed by a more thorough explanation either in a separate paragraph or in an enumerated list.

Example:

The purpose and intent of this measure is to amend laws relating to public lands used for education and public housing.

Specifically, this measure:

- (1) Allows the Department of Education to lease public school lands for a term of not more than an unspecified number of years per lease;
- (2) Specifies that title to the portions of Department of Education lands on which public libraries are located are held by the public library system;
- (3) Amends Act 206, Session Laws of Hawaii 2017, to allow the City and County of Honolulu to transfer lands under existing Department of Education facilities directly to the Department of

- Education, rather than through the Department of Land and Natural Resources;
- (4) Excludes lands set aside by the Governor to the Hawaii Public Housing Authority and lands to which Hawaii Public Housing Authority holds title from the definition of public lands in section 171-2, Hawaii Revised Statutes; and
 - (5) Requires prior legislative approval for the sale of lands to which the Hawaii Public Housing Authority holds title.

When following this approach, avoid making the initial purpose statement so general that it does little more than duplicate the measure's title (e.g., "The purpose of this measure is to amend the provisions of the penal code.").

4. Testimony Paragraph

Committee reports usually contain a summary of the agencies, organizations, and individuals who submitted testimony on the matter being reported out of the committee. This summary is typically divided into separate lists of parties who submitted: (1) testimony in support of the matter; (2) testimony in opposition to the matter; and (3) comments on the matter (without taking a position in support or opposition).

When listing entities, federal agencies are typically listed first, followed by state agencies, county agencies, private organizations, and individuals. If time permits, it is helpful to list testifiers alphabetically within each category. The names of private individuals (i.e., persons who are not testifying on behalf of an entity) who testified on the matter are not included. Instead, a summary of the number of individuals who provided testimony in each category (support, opposition, or comments only) is listed.

Example:

Your Committee received testimony in support of this measure from the United States Department of Energy; Hawaii State Energy Office; Office of Climate Change, Sustainability, and Resiliency of the City and County of Honolulu; Hawaiian Electric Company; Kauai Island Utility Cooperative; and three individuals.

Your Committee received testimony in opposition to this measure from one individual.

Your Committee received comments on this measure from the Public Utilities Commission.

Each chamber maintains its own rules, policies, and procedures regarding the inclusion and format of testifier lists in committee reports. The drafter should consult the respective chamber's rules, policies, and procedures for more information on this subject.

Caveat. These policies and procedures may also differ depending on the nature of the hearing conducted. For example, if a standing committee of the Senate passes out a measure without significant or substantial amendments after a public hearing in which testimony was accepted, Senate Rule 23 authorizes a subsequent Senate committee to take action on the measure in a *decision-making* meeting in which only written (as opposed to written and oral) testimony is accepted. The committee report by the subsequent committee will typically describe testifiers having submitted "written comments" on the measure (*e.g.*, "Your Committee received written comments in support of this measure from...") instead of "testimony."

5. Findings or Discussion Paragraph

This paragraph often includes the committee's "findings" concerning the merits, history (including past or present law), or background of the measure, or other relevant facts. Sometimes a brief historical analysis of the problem may be warranted, but usually a short discussion of the problem that is the impetus for the measure is sufficient. Logically, after an explanation of the problem, a brief discussion regarding how the bill will solve the problem should follow. Generally, the drafter should avoid listing arguments. A narrative approach that is brief and well-written is usually more effective.

Example:

Your Committees find that air travel by state employees produces carbon dioxide and other greenhouse gas emissions that contribute to climate change. Reforestation projects can sequester substantial amounts of carbon dioxide, as well as provide a variety of ecological, cultural, recreational, educational, and economic benefits. This measure will establish a carbon offset program, the funds from which will help to accelerate the number of trees planted and mitigate our carbon footprint.

The chairperson of a committee may occasionally request that the committee report identify issues or concerns brought up in the committee hearing or testimony that should be addressed as the measure moves through the legislature. These are usually included in the findings section of the committee report.

Example:

Your Committee finds that this measure will bring clarity and accountability regarding the finances and management of the Agribusiness Development Corporation. However, your Committee notes that the cost of conducting the management audit is not clear, and your Committee respectfully requests that this concern be considered as this measure moves forward in the legislative process.

or

Your Committee notes the concerns expressed by the Department of Budget and Finance that it is not clear whether the collective bargaining dispute resolution fund meets the statutory criteria to establish a special fund. Accordingly, your Committee respectfully requests that subsequent Committees to which this measure is referred consider this issue.

6. Amendment Paragraph

a. Generally

This paragraph should *summarize* each proposed substantive amendment. The intent is not to report the actual language of the amendment word for word (*e.g.*, "your Committee amended the measure by substituting on page 2, line 16, the word "which" for "that"").

Example:

Your Committee has amended this measure by authorizing, rather than requiring, the Hawaii Housing Finance and Development Corporation to adopt rules pursuant to chapter 91, Hawaii Revised Statutes.

Technical nonsubstantive amendments are also acknowledged in a committee report but are generally not specifically described.

Example:

Your Committee has amended this measure by making technical nonsubstantive amendments for purposes of clarity, consistency, and style.

See also Examples 10-3 (page 347) and 10-15 (page 374).

When more than one amendment is made to a measure, the amendments should generally be enumerated. The amendments should be listed in the following order: (1) substantive amendments; (2) changes to the effective date; and (3) technical amendments. See the following example as well as Example 10-16 on page 376.

Example:

Your Committee has amended this measure by:

- (1) Requiring the Hawaii State Ethics Commission to permanently retain certain lobbying records, rather than retaining them only for a certain period of time;
- (2) Changing the effective date to January 1, 2023; and
- (3) Making technical nonsubstantive amendments for purposes of clarity, consistency, and style.

b. Circulation of proposed drafts

Occasionally, a committee will make available for public review a proposed draft of a measure prior to a hearing so the public can provide feedback on the committee's proposed amendments. This is often done when a committee proposes changes to a measure to the extent that much, if not all, of the original content of the measure will be replaced with new material.

Note: The Hawaii Supreme Court has held that if a non-germane amendment changes the purpose of a bill to the extent that the amended bill is no longer related to the original bill as introduced, the constitutional requirement that the bill pass three readings in each chamber of the Legislature begins anew. See *League of Women Voters of Honolulu v. State*, 150 Haw. 182, 499 P.3d 382 (2021).

If a committee circulates and subsequently adopts a proposed draft, the amendment paragraph should contain language that describes these actions. In addition, to the extent possible, the committee report should identify whether testifiers are providing feedback on the proposed draft or the underlying draft of the measure as received by the committee.

The following examples illustrate the structure of a committee report that reports a committee circulating a proposed draft, holding a public hearing on the proposed draft, and adopting the proposed draft with additional amendments. The proposed draft in the first example makes amendments to the underlying draft while the proposed draft in the second example deletes the underlying draft in its entirety and replaces its contents with completely new material.

Example:

The purpose of this measure is to [insert purpose of measure as received by the committee].

Prior to the hearing on this measure, your Committee made available for public review a proposed H.D. 2, which amends the H.D. 1 by [insert description of the amendments made by the proposed draft].

Your Committee received testimony in support of the proposed draft from _____.

Your Committee received testimony in support of the H.D. 1 from _____.

Your Committee finds _____.

Your Committee has amended this measure by adopting the proposed H.D. 2 and further amending it by _____.

or

The purpose and intent of this measure is to [insert purpose of measure as received by the committee].

Prior to the hearing on this measure, your Committee made available for public review a proposed S.D. 2, which deletes the measure's contents and inserts language that [insert description of the amendments made by the proposed draft].

Your Committee received testimony in support of the proposed draft from _____.

Your Committee received testimony in support of the S.D. 1 from _____.

Your Committee finds _____.

Your Committee has amended this measure by adopting the proposed S.D. 2 and further amending it by _____.

See also Example 10-17 on page 379.

c. **Suggested language for common amendments**

Although by no means exhaustive, suggested language for commonly occurring types of amendments may be found in Example 10-18 beginning on page 382.

7. Recommendation Paragraph

This paragraph clearly states the committee's recommendations regarding the action to be taken. With respect to recommendations on a measure being reported out of committee, the actual language depends upon several factors, including:

- the type of legislative measure
- whether the measure has a single, double, or triple referral
- if the measure is to be recommitted to the committee(s) for further consideration (as in the case when using short form bills)
- whether the measure was amended
- whether the measure was heard by a single committee or two or more committees jointly
- how many readings a bill has gone through in the respective chamber
- the final recommendation of the committee or committees

Generally, bills are reported out of committee and referred to another committee, recommended to pass second or third reading, or both. Article III, section 15, of the Hawaii State Constitution mandates that a bill pass three readings in each chamber on separate days before it may become law. If a bill has a single referral, it will generally pass second reading at the time it is reported out of the committee and be placed on the calendar for third reading. Note that a single referral for a joint hearing of two or more committees is still a *single* referral. If a bill has a double referral, it will generally pass second reading at the time it is reported out of the first committee and be referred to the second committee to move the bill along in the legislative process. If the second committee reports the bill out, it usually recommends that the bill pass third reading. If a bill has a triple referral, it will generally pass second reading at the time it is reported out of the first committee and be referred to the second committee. If the second committee decides to approve the bill, it would recommend that the bill be referred directly to the third committee without passing a reading by the respective chamber. If the last committee decides to approve the bill, it would recommend passage of the bill on third reading.

A bill commonly referred to as a "short form bill" contains only a reference to the general idea of the bill and contemplates the subsequent drafting of the specific details in long form. Generally a short form bill may be amended and reported out of a committee for the purpose of recommmitting it to the same committee to hold a public hearing on its amended long form (*i.e.*, containing the substantive contents) and without recommendation for passage on any reading of the bill. See Examples 10-19 (page 384) and 10-20 (page 386). Thereafter, if the bill is reported out by the committee it is treated the same as a similarly situated bill being reported out of the first referral committee.

Because resolutions are not constitutionally required to pass any readings, a committee report for a resolution will either refer the resolution to another committee or recommend the resolution for adoption. See Example 10-21 on page 388.

As noted previously, although the recommendation paragraph for standing and conference committee reports is boilerplate language that is pulled into a committee report through the computer drafting system, the language should be carefully reviewed after it is inserted into the report to ensure it is consistent with the measure's referral and the recommendation of the committee. Example 10-22 beginning on page 390 sets out the language of the various recommendation boilerplate paragraphs that may be accessed through the computer drafting system.

Example 10-1

COMPONENTS OF A COMMITTEE REPORT

- A. Heading** STAND. COM. REP. NO.
Honolulu, Hawaii
_____, 20__
- RE: H.C.R. No. ####
H.D. # (being reported
out)
- B. Address** Honorable
Speaker or President
House of Representatives or Senate
____ State Legislature
Regular Session of 20__
State of Hawaii
- C. Salutation** *Sir or Madam:*
- D. Title Paragraph** Your Committee on _____, to which was
referred H.C.R. No. ### entitled:

"HOUSE CONCURRENT RESOLUTION _____"
_____,"

begs leave to report as follows:
- E. Purpose paragraph** The purpose of this measure is to

_____.
- F. Testimony paragraph** Your Committee received testimony in support
of this measure from _____
_____.
- G. Findings or discussion
paragraph** Your Committee finds that _____
_____.
- H. Amendment paragraph** Your Committee has amended this measure by
_____.
- I. Recommendation
paragraph** As affirmed by the record of votes of the
members of your Committee on _____ that is
attached to this report, your Committee concurs
with the intent and purpose of H.C.R. No. ###, as
amended herein, and recommends its adoption in the
form attached hereto as H.C.R. No. ###, ____D. #.
- J. Closing** Respectfully submitted on behalf of the
members of the Committee on _____.
- K. Signature** _____
NAME, Chair

Example 10-2

SENATE STANDING COMMITTEE REPORT

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: S.B. No. 474
S.D. 1

Honorable (Name)
President of the Senate
_____ State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Water and Land, to which was referred S.B. No. 474 entitled:

"A BILL FOR AN ACT RELATING TO REAL PROPERTY
TRANSACTIONS,"

begs leave to report as follows:

The purpose and intent of this measure is to ensure that buyers of coastal property understand the hazards and risks they are assuming in purchasing oceanfront property.

Specifically, this measure requires that sellers of residential real property disclose whether a residential real property lies within a sea level rise exposure area as officially designated by the Hawaii Climate Change Mitigation and Adaptation Commission or its successor.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources, Hawaii Climate Change Mitigation and Adaptation Commission, Hawai'i Reef Ocean Coalition, Hawai'i Association of REALTORS, Imua Alliance, Sierra Club of Hawai'i, Environmental Caucus of the Democratic Party of Hawai'i, Surfrider Foundation, and eleven individuals.

Title

Purpose

Testimony

Your Committee finds that the value of property lying within the boundaries of a sea level rise exposure area will likely be affected over time, and is therefore a material fact that should be disclosed by the seller in a real property transaction in accordance with chapter 508D, Hawaii Revised Statutes, relating to mandatory seller disclosures in real estate transactions. Your Committee further finds that the Hawai'i Association of REALTORS will need time to not only update the seller's real property disclosure statement and the oceanfront property addendum of their purchase contracts, but also to train their members to use the Hawaii sea level rise viewer, which is an interactive mapping tool that depicts projections for future hazard exposure and assesses economic and other vulnerabilities due to rising sea levels.

Discussion

Accordingly, your Committee has amended this measure by inserting an effective date of May 1, 2022.

Amendment

As affirmed by the record of votes of the members of your Committee on Water and Land that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 474, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 474, S.D. 1, and be referred to your Committees on Commerce and Consumer Protection and Judiciary.

Recommendation

Respectfully submitted on behalf
of the members of the Committee
on Water and Land,

NAME, Chair

Example 10-3

HOUSE STANDING COMMITTEE REPORT

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: H.B. No. 170
H.D. 1

Honorable (Name)
Speaker, House of Representatives
_____ State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred H.B. No. 170 entitled:

"A BILL FOR AN ACT RELATING TO THEFT IN THE SECOND DEGREE,"

begs leave to report as follows:

The purpose of this measure is to include within the offense of theft in the second degree the theft of property commonly used to store items of personal or monetary value, including any purse, handbag, or wallet.

Your Committee received testimony in support of this measure from the Honolulu Police Department. Your Committee received testimony in opposition to this measure from the Office of the Public Defender. Your Committee received comments on this measure from the Department of the Prosecuting Attorney of the City and County of Honolulu.

Your Committee finds that the Hawaii Penal Code does not adequately cover instances in which a person takes the property of another that is commonly used to store items of personal or monetary value. The Hawaii Supreme Court has held that the prosecution must prove beyond a reasonable doubt that the defendant intended to steal property or services at the value specified in the Hawaii Penal Code. Thus, your Committee further finds that, while persons may be arrested for stealing property

Title

Purpose

Testimony

Discussion

in excess of the statutory amounts, the burden to prove that the person intended to steal those items discourages these prosecutions. Your Committee further finds, however, that items of personal value may be too vague to be enforceable.

Discussion

Accordingly, your Committee has amended this measure by:

- (1) Removing items of personal value from the types of items that may be the basis for the offense;
- (2) Clarifying that the examples of property commonly used to store items of monetary value are not exhaustive; and
- (3) Making technical nonsubstantive amendments for purposes of clarity, consistency, and style.

Amendments

As affirmed by the record of votes of the members of your Committee on Judiciary & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 170, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 170, H.D. 1, and be placed on the calendar for Third Reading.

Recommendation

Respectfully submitted on behalf
of the members of the Committee
on Judiciary & Hawaiian Affairs,

NAME, Chair

Example 10-4

**CONFERENCE COMMITTEE REPORT
Prepared by the Senate**

CONFERENCE COMMITTEE REP. NO.

Honolulu, Hawaii

_____, 20__

RE: S.B. No. 813
H.D. 1
C.D. 1

Honorable (Name)
President of the Senate
_____ State Legislature
Regular Session of 20__
State of Hawaii

*Note difference from House
Conference reports.
Senate President is listed first.*

Honorable (Name)
Speaker, House of Representatives
_____ State Legislature
Regular Session of 20__
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 813, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to require authorizers to provide to each charter school it oversees a list of approved independent auditors.

Your Committee on Conference finds that charter schools may only select an auditor from a list of three auditors selected by the authorizer. There are currently not enough auditors in Hawaii to meet the required timeline to ensure charter school audits are included in the consolidated annual financial reports. Your Committee further finds that many of the auditors selected by the authorizer are based on Oahu, which makes it more difficult

Title

Purpose

Discussion

for charter schools on the other islands to complete their audits and forces those charter schools to incur additional expenses and delays. This measure would allow the charter schools to choose from a list of more than three independent auditors to conduct audits and provide access to auditors for the many charter schools that operate on all the islands across the State.

Discussion

Your Committee on Conference amended this measure by changing the effective date to upon its approval.

Amendment

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 813, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 813, H.D. 1, C.D. 1.

Recommendation

Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE

(NAME)
Co-Chair

(NAME)
Chair

(NAME)
Co-Chair

(NAME)
Co-Chair

(NAME)
Co-Chair

(NAME)
Co-Chair

Example 10-5

**CONFERENCE COMMITTEE REPORT
Prepared by the House of Representatives**

CONFERENCE COMMITTEE REP. NO.

Honolulu, Hawaii

_____, 20__

RE: H.B. No. 237
 H.D. 2
 S.D. 2
 C.D. 1

Honorable (Name)
Speaker, House of Representatives
_____ State Legislature
Regular Session of 20__
State of Hawaii

Honorable (Name)
President of the Senate
_____ State Legislature
Regular Session of 20__
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 237, H.D. 2, S.D. 2, entitled:

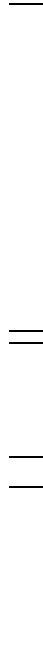
"A BILL FOR AN ACT RELATING TO INVASIVE SPECIES,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to appropriate funds to the Department of Agriculture for the mitigation and control of the two-lined spittlebug and fund recovery efforts.

Your Committee on Conference has amended this measure by:

- (1) Inserting an appropriation amount of \$350,000 for fiscal year 2021-2022 only;



Title

Purpose

Amendment

- (2) Changing the source of funding to the funds received by the State of Hawaii from the American Rescue Plan Act of 2021, Public Law 117-2 (Section 9901);
- (3) Changing its effective date to July 1, 2021; and
- (4) Making technical nonsubstantive amendments for purposes of clarity, consistency, and style.

Amendment

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 237, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 237, H.D. 2, S.D. 2, C.D. 1.

Recommendation

Respectfully submitted on behalf of
the managers:

ON THE PART OF THE SENATE

ON THE PART OF THE HOUSE

(NAME)
Chair

(NAME)
Co-Chair

(NAME)
Co-Chair

(NAME)
Co-Chair

(NAME)
Co-Chair

Example 10-6

CONFERENCE COMMITTEE REPORT SPECIAL SESSION (Bills Vetoed by Governor)

CONFERENCE COMMITTEE REP. NO.

Honolulu, Hawaii

_____, 20__

RE: H.B. No. 2428-08

H.D. 1

S.D. 2

C.D. 2

Honorable (Name)
Speaker, House of Representatives
_____ State Legislature
Special Session of 20__
State of Hawaii

*Reverse order if
prepared by Senate*

Honorable (Name)
President of the Senate
_____ State Legislature
Special Session of 20__
State of Hawaii

Sir and Madam:

Your Committee on Conference on H.B. No. 2428-08, H.D. 1, S.D. 2, C.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE ADMINISTRATION OF GENERAL ASSISTANCE TO NEEDY PERSONS,"

returned by the Governor with (his/her) statement of objections, having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to exclude from general assistance any person who is physically fit, able to work, and employable with certain exceptions. The exceptions under which a person shall be eligible to receive general assistance is as follows: "...provided the department shall provide assistance to such person where the department finds that:

(1) The person is:

(A) Unemployed for reasons other than voluntary separation without good cause or for misconduct; and

- (B) Actively and diligently seeking gainful employment; or
- (2) The person has:
 - (A) Exhausted all of the person's benefits if the person is entitled to such benefits under chapter 383, Hawaii Revised Statutes; and
 - (B) Registered and is available for work as required by section 383-29(a)(2) and (3), Hawaii Revised Statutes.

Your Committee finds that the provisions of the bill may have inadvertently liberalized the general assistance program, contrary to its original purpose, and thereby allowing persons to "free-load" with their having no intention to seek or accept gainful employment. The bill actually allows for a person, after exhausting all of the person's benefits if the person is entitled to such benefits under chapter 383, Hawaii Revised Statutes, to merely register and become available for work as required by section 383-29(a)(2) and (3), Hawaii Revised Statutes. There are no mandatory provisions whereby the person must accept any employment when made available.

* * *

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2428-08, H.D. 1, S.D. 2, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2428-08, H.D. 1, S.D. 2, C.D. 2.

Respectfully submitted on behalf
of the managers:

ON THE PART OF THE SENATE

ON THE PART OF THE HOUSE

NAME, Chair

NAME, Chair

Example 10-7

ADVISE AND CONSENT Cabinet Member

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: GOV. MSG. NO. 506

Honorable (Name)
President of the Senate

State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Health, to which was referred Governor's Message No. 506, submitting for study and consideration the nomination of:

DIRECTOR OF THE DEPARTMENT OF HEALTH

G.M. No. 506 ELIZABETH CHAR,
for a term to expire 12-05-2022,

begs leave to report as follows:

Your Committee reviewed the personal history, resume, and statement submitted by Dr. Elizabeth Char for service as the Director of the Department of Health.

Your Committee received testimony in support of the nomination for the appointment of Dr. Char from the Office of the Governor; Department of Agriculture; Department of Commerce and Consumer Affairs; Department of Land and Natural Resources; Department of Transportation; Department of Defense; Department of Accounting and General Services; Department of Budget and Finance; Department of Business, Economic Development, and Tourism; Department of Labor and Industrial Relations; Department of Public Safety; Department of Taxation; Department of Human Resources Development; Department of Education; Department of Human Services; Department of Hawaiian Home Lands; Hawaii State Energy Office; State Fire Council; University of Hawaii at Manoa Pacific Emergency Management, Preparedness and Response Information Network and Training Services; Hawaii Health Systems Corporation; Hawai'i Lodging & Tourism Association; Hawai'i Tourism Authority; City and County of Honolulu Department of Emergency

Management; City and County of Honolulu Emergency Services Department; Mayor of the County of Kaua'i; Hawai'i Fire Department; Hawai'i Pacific Health; The Queen's Health Systems; Hawaii Primary Care Association; Healthcare Association of Hawaii; Kaiser Permanente Hawai'i; One Shared Future Inc.; American Heart Association, Inc.; Hawaii College of Emergency Physicians; Hawaii Medical Service Association; Hina Mauka; Kōkua Mau, Inc.; National Association of EMS Physicians; Hawai'i Public Health Institute; and sixty-eight individuals.

Dr. Char is currently the Interim Director of Health and was appointed to the position as the State was grappling with the coronavirus disease 2019 (COVID-19) pandemic. At the time of her appointment, Dr. Char was working as an emergency physician for Queen's Healthcare Centers; was the Medical Director of American Medical Response, Hawaii; and the Medical Director of both the Honolulu Fire Department and Kauai Fire Department. Dr. Char has served, among other positions, as the Director of the City and County of Honolulu's Emergency Services Department, Medical Director of Oahu Emergency Medical Services, and President of the Oahu Board of Directors for the American Heart Association. Dr. Char has also served as an advisor for the Emergency Medicine Interest Group at the John A. Burns School of Medicine. Additionally, Dr. Char has served the State as a member of the State's Maternal Mortality Review Committee and Opioid Abuse and Prevention Task Force. Dr. Char has held these positions while practicing as a physician since 1997. Notably, the Governor named Dr. Char to the position of Interim Director of Health on September 8, 2020, shortly after Hawaii experienced a spike in COVID-19 infections in August 2020. She was immediately faced with captaining the State's response to the pandemic through efforts such as contact tracing, developing safety policies, and the ongoing vaccine distribution.

Dr. Char is admired and respected by her colleagues, as evidenced by the unanimous supportive testimony submitted on her behalf. Testimony in support of her nomination indicates that she has a proven track record of being a tireless worker, an effective communicator, and an experienced physician. Testifiers who have worked closely with Dr. Char commented that, in her time as Interim Director of Health, she has brought a holistic perspective and vision to the Department of Health and that she makes sound, evidence-based decisions. Other testifiers noted that Dr. Char brings a leadership style that is authentic, humble, collaborative, compassionate, and competent.

Your Committee notes from Dr. Char's personal statement that her vision for the Department of Health is to lead a team of deputy directors towards a science-based, rational approach to help the State navigate the COVID-19 pandemic and mitigate morbidity and mortality in the community. Dr. Char also highlighted the need for collaboration

between government, the private sector, and the nonprofit sector to solve the challenges presented by the COVID-19 pandemic and other public health problems that may arise. Your Committee believes that Dr. Char, with her experience, background, and demonstrated commitment to the health and safety of the people of Hawaii, possesses the qualifications to serve and excel as the Director of Health and to continue leading the Department of Health.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Respectfully submitted on behalf
of the members of the Committee
on Health,

NAME, Chair

Example 10-8

ADVISE AND CONSENT Commission Member

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: GOV. MSG. NOS. 528, 529, 530

Honorable (Name)
President of the Senate
_____ State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Water and Land, to which was referred Governor's Message Nos. 528, 529, and 530, submitting for study and consideration the nominations of:

LAND USE COMMISSION

G.M. No. 528	NANCY CABRAL, for a term to expire 06-30-2025;
G.M. No. 529	DAN GIOVANNI, for a term to expire 06-30-2025; and
G.M. No. 530	GARY OKUDA, for a term to expire 06-30-2025,

begs leave to report as follows:

Your Committee reviewed the personal histories, resumes, and statements submitted by Nancy Cabral, Dan Giovanni, and Gary Okuda for service on the Land Use Commission.

NANCY CABRAL

Your Committee received testimony in support of the nomination for the reappointment of Nancy Cabral from the Land Use Commission, Ashford & Wriston, and two individuals.

Upon review of the testimony, your Committee finds that Ms. Cabral's professional experience, background, and proven leadership on the Land Use Commission qualify her for consideration for reappointment to the Land Use Commission as a member from Hawaii County, pursuant to section 205-1, Hawaii Revised Statutes. Your

Committee notes that Ms. Cabral has been a real estate agent since 1979. She is not only the owner of both Coldwell Banker Day-Lum Properties and Day-Lum Rentals and Management, Inc., the largest property management company on Hawaii Island, but also was appointed as a property manager for the Third Circuit Court. Your Committee further notes that Ms. Cabral has a thorough understanding of the role and responsibilities of board members as she has served on the Board of Directors for both the Ku'ikahi Mediation Center and Hawaii Public Housing Authority and is currently a Vice Chair of the Land Use Commission. Your Committee further finds that Ms. Cabral has served on the Land Use Commission since 2015, and her service continues to enhance the effectiveness of the Land Use Commission. Your Committee therefore recommends that Nancy Cabral be reappointed to the Land Use Commission based on her knowledge on housing in Hawaii, diverse experience, and desire to contribute to the community.

DAN GIOVANNI

Your Committee received testimony in support of the nomination for the reappointment of Dan Giovanni from the Land Use Commission, Mayor of the County of Kaua'i, and three individuals.

Upon review of the testimony, your Committee finds that Mr. Giovanni's professional experience, background, and commitment to public service qualify him for consideration for reappointment to the Land Use Commission as a member from Kauai County, pursuant to section 205-1, Hawaii Revised Statutes. Your Committee notes that Mr. Giovanni has been an independent contractor since 2015, offering consulting services to the electric power industry. Previously, Mr. Giovanni was the Senior Vice President of Operations at Hawaiian Electric Company, Inc. Your Committee further notes that Mr. Giovanni has a thorough understanding of the role and responsibilities of board members as he has served on the Board of Directors for Enterprise Honolulu and currently, is not only on the Board of Directors for the Hawaii Chapter of the American Red Cross, but also the President of the Kaua'i Humane Society Board of Directors. Your Committee further finds that Mr. Giovanni's extensive experience in architecture, engineering, and electric utilities will continue to enhance the effectiveness of the Land Use Commission, especially on matters regarding utility-scale energy projects on agricultural lands. Your Committee therefore recommends that Dan Giovanni be reappointed to the Land Use Commission based on his background, knowledge in renewable energy, and desire to contribute to the community.

GARY OKUDA

Your Committee received testimony in support of the nomination for the reappointment of Gary Okuda from the Land Use Commission, Sierra Club of Hawai'i, Ashford & Wriston, and twenty-four individuals.

Upon review of the testimony, your Committee finds that Mr. Okuda's background as an attorney and dedication to public service qualify him for consideration for reappointment to the Land Use

Commission as an at-large member. Your Committee notes that Mr. Okuda has practiced law in Hawaii for forty years, including the areas of property and land use law in private practice. Your Committee further finds that Mr. Okuda has served on the Land Use Commission since 2016, and his thorough understanding of the roles and responsibilities of its members continues to enhance the effectiveness of the Land Use Commission. Mr. Okuda's courtroom experience and legal knowledge will continue to be assets to the Land Use Commission. Your Committee therefore recommends that Gary Okuda be reappointed to the Land Use Commission based on his experience, knowledge, and commitment to public service.

As affirmed by the records of votes of the members of your Committee on Water and Land that are attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Respectfully submitted on behalf
of the members of the Committee
on Water and Land,

(NAME), Chair

Example 10-9

ADVISE AND CONSENT Judicial

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: GOV. MSG. NO. 3

Honorable (Name)
President of the Senate
_____ State Legislature
_____ Session of 20__
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred Governor's Message No. 3, submitting for study and consideration the appointment of:

JUDGE OF THE CIRCUIT COURT OF THE FIRST CIRCUIT

G.M. No. 3 LISA W. CATALDO,
for a term to expire in 10 years,

begs leave to report as follows:

Your Committee reviewed the personal history, resume, and statement submitted by Lisa W. Cataldo for service as a Judge of the Circuit Court of the First Circuit.

Your Committee received testimony in support of the appointment of Lisa W. Cataldo from Hawaii Women Lawyers and thirty-nine individuals. Your Committee received comments on the appointment of Lisa W. Cataldo from the Board of Directors of the Hawaii State Bar Association.

The Hawaii State Bar Association Board of Directors (HSBA Board) uses a rating system that considers several criteria to assist the HSBA Board in making a recommendation to your Committee on whether the appointee is "qualified" or "not qualified". Specifically, the criteria the HSBA Board employs is the same criteria found in the American Bar Association's Guidelines for Reviewing Qualifications of Candidates for State Judicial Office. Those guidelines include the following criteria, which are not exclusive: integrity, diligence, legal knowledge and ability, professional experience, temperament,

financial responsibility, public service, health, and ability to fulfill the responsibilities and duties required of the position for which the applicant has been appointed. Upon review of the established criteria, the HSBA Board found the appointee to be qualified for the position of Judge of the Circuit Court of the First Circuit.

Lisa W. Cataldo received her Bachelor of Science degree with honors from Oregon State University and later obtained her Doctorate of Jurisprudence from Hastings College of Law at the University of California. She currently is a partner at McCorrison Miller Mukai MacKinnon LLP, where she participates in the defense of claims involving issues relating to commercial disputes, employment, disability, insurance, constitutional and civil rights, and land use on behalf of government, business, and individual clients in state and federal courts.

Prior to her current practice, Lisa W. Cataldo was a Deputy Corporation Counsel for the City and County of Honolulu Department of Corporation Counsel. She also served in the Marshall Islands as a part-time Magistrate Judge on the United States District Court, District of Hawai`i, and a training specialist for Range Systems Engineering Support, Co.

Testimony submitted in support of Lisa W. Cataldo's appointment commends her professionalism, strong work ethic, and keen intellect. Additionally, she has a reputation for objectivity, legal knowledge, and dedication to the fair and just application of the law. Testifiers noted Ms. Cataldo's sound judgment and unwavering integrity.

Your Committee finds that, based on the testimony submitted on her behalf, Lisa W. Cataldo has the experience, temperament, judiciousness, and requisite competencies to be a Judge of the Circuit Court of the First Circuit.

As affirmed by the record of votes by the members of your Committee on Judiciary that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the appointee, has found the appointee to be qualified for the position to which appointed and recommends that the Senate consent to the appointment.

STAND. COM. REP. NO.

Page 3

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,

(NAME), Chair

Example 10-10

ADVISE AND CONSENT Board Nominee Rejection

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: GOV. MSG. NO. ____

Honorable (Name)
President of the Senate
_____ State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Economic Development and Taxation, to which was referred Governor's Message No. ____, submitting for study and consideration the nomination of:

BOARD OF DIRECTORS OF THE HAWAII TECHNOLOGY DEVELOPMENT CORPORATION

G.M. No. ____ (NAME),
for a term to expire 6-30-2021,

begs leave to report as follows:

Your Committee reviewed the personal history, resume, and statement submitted by (Name) for service on the Board of Directors of the Hawaii Technology Development Corporation.

Your Committee received testimony in support of (Name) from the Department of Business, Economic Development, and Tourism; Hawaii Technology Development Corporation (HTDC); Hawaii Small Business Development Center Network, Maui Center; the former Mayor of Maui County; and one individual.

(Name) is President of (Company Name), a California-based company he founded in 1991. He previously held senior management positions with (Company Name) and (Company Name) in California. He has a Bachelor of Science in Electrical Engineering from Stanford University and is the author of the book, "(Book Title)". Mr. (Name) is currently serving as an interim appointment to the Board.

Your Committee finds that the Hawaii Technology Development Corporation is at a critical juncture, with general fund support

declining at the same time the Corporation is being tasked with additional commitments by the Administration. This comes at a time when Hawaii's technology sector is expanding, particularly small start-ups and other fledgling entrepreneurial businesses that rely on the Corporation for a variety of services and financial assistance.

Your Committee has questioned the nominee with respect to his assertion that Silicon Valley can serve as a model for Hawaii, his contributions to the Maui and statewide technology communities, and his assessment of the challenges facing Hawaii's technology businesses.

Mr. (Name) responded, but his answers focused in large part on the strategies in his book and his personal management experience, and less on the overall concerns of the questions. In addition, his involvement with Hawaii technology companies is somewhat limited, which may be due in part to an extensive consulting and teaching schedule outside of Hawaii. Your Committee finds that while enthusiastic, Mr. (Name) is not the best candidate to help guide the Hawaii Technology Development Corporation in meeting its statutory requirements of facilitating the growth and development of the commercial technology industry in Hawaii during a period of transition for the Corporation.

After reviewing the background, experience, and qualifications of Mr. (Name), the Chairperson of your Committee made a motion that your Committee recommend that the Senate not advise and consent to the appointment of Mr. (Name). This vote received four ayes and three nays; nevertheless, the appointment will move to the Senate floor for consideration by the full Senate pursuant to Rule 37 of the Rules of the Hawaii State Senate.

As affirmed by the record of votes of the members of your Committee on Economic Development and Taxation that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the nominee, recommends that the Senate not advise and consent to the nomination.

Respectfully submitted on behalf
of the members of the Committee
on Economic Development and
Taxation,

(NAME), Chair

Example 10-11

COMMITTEE OF THE WHOLE REPORT

COMMITTEE OF THE WHOLE REPORT NO.

Honolulu, Hawaii

_____, 20__

RE: H.B. No. 184
S.D. 1

Honorable (Name)
President of the Senate
_____ State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee of the Whole, to which was referred S.B. No. 184 entitled:

"A BILL FOR AN ACT RELATING TO CAPITAL CRIMES,"

begs leave to report as follows:

The purpose of this measure is to reinstitute a non-mandatory death penalty for certain types of murder.

The Constitution of the United States and the Constitution of the State of Hawaii both expressly proscribe the infliction of cruel or unusual punishment.

Four years after its holding in *Furman v. Georgia*, 408 U.S. 238 (1972) foreclosed under the Federal Constitution executions under state laws then in existence, a majority of the Supreme Court of the United States held that the death penalty is a constitutionally permissible punishment, at least for carefully defined categories of murder. However, the Court went on to say that the 8th Amendment required the sentencing authority to be provided with carefully controlled discretion; a bifurcated trial was seen as the ideal procedure. Mandatory death penalty laws are, as a general rule, unconstitutional.

* * *

Your Committee has held a public hearing on this measure and has heard testimony from many interested persons on the arguments for and against capital punishment.

Your Committee has amended the measure in order to clarify the basic concepts relating to capital punishment and to conform other provisions of the Hawaii Penal Code.

This measure, as amended herein, would:

- (1) Provide that after determination of guilt in capital murder cases in which the death penalty may be imposed a separate sentencing proceeding shall be held.
- (2) Provide a new offense, called capital murder, in which the murder of the following persons or murder committed through the following actions shall be punishable by a sentence of death or life imprisonment without parole:
 - (A) The murder of a police officer, corrections personnel, parole officer, probation officer, county prosecuting attorney, or county attorney engaged in prosecutorial functions while in the performance of official duties;
 - (B) The murder of a judge during or because of the exercise of official duties.

* * *

Your Committee of the Whole is in accord with the intent and purpose of S.B. No. 184, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 184, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on behalf
of the members of the Committee
of the Whole,

(NAME), Chair

Example 10-12

DISSENT TO STANDING COMMITTEE REPORT

DISSENT TO STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: H.B, No. 852
H.D. 1

Honorable (Name)
Speaker, House of Representatives
_____ State Legislature
Regular Session of 20__
State of Hawaii

Sir:

We the undersigned support the statuary hall commission's recommendation that Marisol Escobar be commissioned to execute the statue of Father Damien.

The most significant thing about the piece of sculpture representing Father Damien by Marisol Escobar is its high quality. The sculptress has chosen to represent the heroic strength of will and the great power of the inner spirit of Father Damien. She has done so with simplicity and insight, and the bronze figure therefore demonstrates the most durable features of Father Damien's life. Since this figure must be viewed by thousands of people of all kinds of backgrounds and from all places who have never seen Father Damien, in many cases have never heard of him, it is essential that the meaning of his life and the essence of his character be apparent. It is precisely to these things that this piece of sculpture is devoted. The upright figure illustrates both strength of purpose and a prevailing courage. The face is filled with travail and compassion, but it is not specifically a diseased face.

At the scale of over seven feet in height this figure would retain its dignity and its meaning. Anyone standing on the floor of Statuary Hall will necessarily be looking up at the figure and the fact that it is clear and forthright, skillful and profound, organized without superficial detail or misleading distractions on its surface will cause it to be one of the most compelling of all the figures of Statuary Hall.

We feel that questions as to its avant-garde character or its nature as a piece of contemporary art have no significance. Its

characteristics and its form are of the kind which can make it endure and outlast numerous changes and fashions.

We believe that whatever shock it causes is the consequence of its forceful demand upon one's attention and its insistence upon making a sincere statement about a profound spiritual meaning in the life of Father Damien. It cannot be passed by casually nor will it be forgotten easily.

We believe that it is not only appropriate for its purpose, supremely fitting to the greatness of Father Damien, potentially a superb piece of sculpture with probable lasting values, but that the fees as outlined are reasonable.

We believe that the fact that the sculptress has chosen to deal with the spirit of Father Damien rather than with the incidental and momentary details of his physical experiences is precisely what will provide in this statue a work of which we may be proud for generations to come and a statement which will have many levels of meaning for many different people. It promises to be a moving statement about a most special man. It should therefore serve both as a mark of our respect for Father Damien and an inspiration. The powerful dignity of this statue makes both possible.

In conclusion, we reiterate our concurrence with the recommendations of the majority members of the statutory hall commission, and therefore do not recommend the passage of H.B. No. 852 on Third Reading.

Respectfully submitted,

NAME

NAME

NAME

Example 10-13

MINORITY REPORT ON CONFERENCE COMMITTEE REPORT

MINORITY REPORT ON
CONFERENCE COM. REP. NO.

Honolulu, Hawaii
_____, 20__

RE: S.B. No. 1295
S.D. 1
H.D. 2
C.D. 1

Honorable (Name)
President of the Senate
_____ State Legislature
Regular Session of 20__
State of Hawaii

*Reverse order if prepared by
House of Representatives*

Honorable (Name)
Speaker, House of Representatives
_____ State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Minority members agree with the opening statement in Standing Committee Report No. 416 from the Senate Committee on Ways and Means wherein it was stated, "We need to understand and the people of Hawaii need to understand that government cannot be all things to all people. ...Your Committee has made a critical examination of the requirements to maintain a level of services and operations that is both beneficial and progressive to the people of our State. Cognizant of the need to maintain a creditable case management position during these financial difficult times and still not overburden the people of our State, your Committee has taken an austere but responsive approach in appropriating funds for programs and projects. Mindful of this, your Committee where feasible has deferred programs and projects, reduced expenditures of certain programs, deleted vacant and new positions over and above the executive's abolishment of 620 positions, and is recommending adjustments to the State's funding structure."

It is appropriate at this time to preface our recommendations by quoting some of the governor's messages to the legislature:

State of the State Message - 1969

"The theme is prudent spending.
The tone is one of caution.
The policy is pay-as-we-go."

Executive Budget Message - 1970

"We are today as in the rest of the nation, at a point where the immediate future economic picture is not clear. Observe in public print the many indications of a leveling economy. Observe also the efforts of the national government to cool the economy. Observe, if you will, evidences of a growing restlessness among those who must pay for the costs of government.

"These observations are made to indicate to you a basic rationale for many of the recommendations in the budget. We need, at this time, to weigh carefully the future financial implications of our actions today. We need to avoid where possible obligating the State to increased costs in the future. At the same time, we need, of course, to provide those services to our people which are necessary."

* * *

For these reasons, your Minority members on the Committee on Conference on S.B. No. 1295, S.D. 1, H.D. 2, C.D. 1, are not in accord with the intent and purpose of S.B. No. 1295, S.D. 1, H.D. 1, C.D. 1, and recommend that it not pass Final Reading.

Respectfully submitted,

NAME

NAME

Example 10-14

MULTI-PARAGRAPH PURPOSE

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: H.B. No. 1093
H.D. 2
S.D. 1

Honorable (Name)
President of the Senate

State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred H.B. No. 1093, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TRANSPORTATION NETWORK COMPANIES,"

begs leave to report as follows:

The purpose and intent of this measure is to establish operating requirements for transportation network companies and to prohibit them from operating in the State without a permit issued by the Director of Transportation.

This measure also makes permanent the current motor vehicle insurance requirements relating to the motor vehicle used by a driver for a transportation network company.

Your Committee received written comments in support of this measure from Uber Technologies Inc. and Lyft.

Your Committee received written comments in opposition to this measure from Charley's Taxi, Roberts Hawaii, and Hawaii Passenger and Property Carriers Association.

Your Committee received written comments on this measure from the Department of Transportation Services of the City and County of Honolulu.

Your Committee finds that this measure will apply uniform requirements for transportation network companies across all counties and will provide consumers and drivers for transportation network

companies with a consistent experience with the transportation network companies statewide.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1093, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Respectfully submitted on behalf
of the members of the Committee
on Ways and Means,

(NAME), Chair

Example 10-15

STANDING COMMITTEE REPORT "Technical Nonsubstantive" Amendments

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: S.B. No. 592
S.D. 1

Honorable (Name)
President of the Senate
_____ State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 592 entitled:

"A BILL FOR AN ACT RELATING TO THE SALARY OF THE STATE LIBRARIAN,"

begs leave to report as follows:

The purpose and intent of this measure is to tie the State Librarian's salary to an amount equal to ninety percent of the Superintendent of Education's salary.

Your Committee received testimony in support of this measure from the Board of Education.

Your Committee finds that the statutory limit on the State Librarian's salary has not been increased since 2001. Tying the State Librarian's salary to a percentage of the Superintendent of Education's salary will obviate the need to periodically amend the law due to changing economic circumstances.

Your Committee has amended this measure by:

- (1) Changing the text of section 312-2.1(b), Hawaii Revised Statutes, to correspond to the printed version of the Hawaii Revised Statutes; and
- (2) Making a technical nonsubstantive amendment for the purpose of clarity.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 592, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 592, S.D. 1.

Respectfully submitted on behalf
of the members of the Committee
on Ways and Means,

(NAME), Chair

Example 10-16

COMMITTEE REPORT FOR JOINT COMMITTEE HEARING WITH MULTIPLE AMENDMENTS

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: H.B. No. 826
H.D. 2
S.D. 2

Honorable (Name)
President of the Senate

State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committees on Ways and Means and Judiciary, to which was referred H.B. No. 826, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ELECTRONIC SMOKING DEVICES,"

beg leave to report as follows:

The purpose and intent of this measure is to provide additional resources to the Department of the Attorney General to protect the public from the damages caused by using products that contain nicotine.

More specifically, this measure:

- (1) Authorizes the use of moneys in the tobacco enforcement special fund for all functions of the Department of the Attorney General;
- (2) Expands the functions of the Electronic Smoking Device Retailer Registration Unit to include enforcement of laws that regulate the sale of electronic smoking devices;
- (3) Prohibits retailers from selling flavored tobacco products, mislabeling e-liquids containing nicotine, and selling tobacco products other than through in-person retail sales; and

- (4) Expands the definition of "tobacco product" to include e-liquid products and electronic smoking devices.

Your Committees received written comments in support of this measure from the Department of Health, Hawaii Primary Care Association, Hawaii State Teachers Association, Independent Schools, Hawaii Public Health Institute, Hawaii COPD Coalition, Adventist Health Castle, Hawaii Dental Association, Blue Zones Project, and twenty-one individuals.

Your Committees received written comments in opposition to this measure from the Attorney General; Hawaii Smokers Alliance; American Cancer Society Cancer Action Network; American Heart Association; Cigar Association of America, Inc.; AlohaCare; Retail Merchants of Hawaii, and eleven individuals.

Your Committees received written comments on this measure from the Department of Taxation, Department of Budget and Finance, Black Lava Vape, and Tobacco-Free Kids Action Fund.

Your Committees find that abolishing the Electronic Smoking Device Retailer Registration Unit will help to streamline the registration process for retailers who engage in the sale of electronic smoking devices and will help to reduce unnecessary government expenditures.

Your Committees have amended this measure by:

- (1) Deleting provisions that expanded the purposes for which moneys in the tobacco enforcement special fund may be used;
- (2) Abolishing the Electronic Smoking Device Retailer Registration Unit;
- (3) Clarifying that fines for the second or subsequent offenses for selling certain tobacco products shall be assessed only if the second or subsequent offense is committed within an unspecified time period after the first offense; and;
- (4) Making technical nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Ways and Means and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 826, H.D. 2, S.D. 1, as amended herein, and

recommend that it pass Third Reading in the form attached hereto as H.B. No. 826, H.D. 2, S.D. 2.

Respectfully submitted on
behalf of the members of
the Committees on Ways
and Means and Judiciary,

(NAME), Chair

(NAME), Chair

Example 10-17

CIRCULATION OF PROPOSED DRAFT BEFORE HEARING

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: S.B. No. 2386

S.D. 1

Honorable (Name)
President of the Senate
_____ State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committees on Water and Land and Agriculture and Environment, to which was referred S.B. No. 2386 entitled:

"A BILL FOR AN ACT RELATING TO WASTE MANAGEMENT,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit any waste or disposal facility from being located in a conservation district except in emergency circumstances to mitigate significant risks to public safety and health; and
- (2) Require no less than a one-half mile buffer zone for the construction, operation, modification, or expansion of a municipal solid waste landfill unit.

Your Committees received testimony in support of this measure from the Plumbers and Fitters Local 675, Zero Waste O'ahu, Sierra Club of Hawai'i, ILWU Local 142, Surfrider Oahu, 'Ai Pohaku-The Stone Eaters, and three individuals.

Your Committees received testimony in opposition to this measure from the County of Hawai'i, Department of Environmental Management; Building Industry Association Hawaii; and Chamber of Commerce Hawaii.

Your Committees received comments on this measure from the County of Maui, Department of Environmental Management.

Prior to the hearing on this measure, your Committees posted and made available for public review a proposed S.D. 1, which amends this measure by clarifying the types of facilities that are subject to the buffer zone requirement.

Your Committees received testimony in support of the proposed S.D. 1 from the Department of Land and Natural Resources; Ke One O Kākuhihewa-O'ahu Council of the Association of Hawaiian Civic Clubs; Iron Workers Stabilization Fund; Association of Hawaiian Civics Clubs; Moku O Manokalanipō, Kaua'i Council of the Association of Hawaiian Civic Clubs; International Brotherhood of Electrical Workers; Prince Kūhiō Hawaiian Civic Club; Plumbers and Fitters Local 675; Association of Hawaiian Civic Clubs-Hawai'i Council; Hawaii Building & Construction Trades Council; and one individual.

Your Committees received testimony in opposition of the proposed S.D. 1 from the Department of Health and PVT Land Company, Ltd.

Your Committees received comments on the proposed S.D. 1 from the County of Maui, Department of Environmental Management and County of Kauai, Department of Public Works.

Your Committees find that there is an emergence of scientific studies affirming the health hazards of living and working next to landfills. The State lacks a landfill buffer zone requirement that adequately protect public health. This measure will ensure a minimum safe distance between landfills, its facilities, and the public to better increase the health and quality of life for the people in the State.

Your Committees have amended this measure by adopting the proposed S.D. 1 and further amending the measure by:

- (1) Changing the effective date to July 1, 2050, to facilitate further discussion on the measure; and
- (2) Making technical nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Water and Land and Agriculture and Environment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2386, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2386, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on behalf
of the members of the Committees
on Water and Land and
Agriculture and Environment,

(NAME), Chair

(NAME), Chair

Example 10-18

COMMONLY OCCURRING AMENDMENTS Suggested Language

Changing the Appropriation Amount or Effective Date

Over the years, legislative committees have sought to keep bills moving through the legislative hearing process in order to continue discussions on them. Accordingly, to keep a bill alive and ensure it continues to move through the process, the committee will often amend the bill by changing or zeroing out an appropriation amount or inserting an effective date far into the future (often inaccurately but commonly referred to as a "defective date").

In such cases, the following language is frequently used in the committee report to explain the purpose of the amendment.

Appropriation Amount:

"Your Committee has amended this measure by changing the appropriation from \$50,000 to \$1 (or "*an unspecified amount*") to facilitate further discussion on the measure."

Effective Date:

"Your Committee has amended this measure by changing the effective date to July 1, 20XX, to facilitate further discussion on the measure."

Note: If the committee amends a bill to *both* change the appropriation amount *and* "defect" the effective date, the reference to furthering discussion on the measure should *only* be used with respect to the effective date amendment—*not to both amendments*.

"Gut and Replace"

Avoid using the phrase "gut and replace" when replacing the contents of one measure with the contents of another. Use any of the following language, as appropriate:

"Your Committee has amended this measure by replacing its contents with the contents of S.B. No. 251, S.D. 1."

"Your Committee has amended this measures by replacing its contents with the contents of the proposed draft of H.B. No. 1017, H.D. 1, S.D. 1, which was circulated prior to your Committee's hearing on this measure."

"Your Committee has amended this measure by deleting its contents and inserting language from S.B. No. 175, S.D. 3, which provides: (*list the major points of the measure*)."

"Your Committee has amended this measure by replacing its contents with the contents of S.B. No. 1142, S.D. 2, which are substantively similar, except for technical differences."

Technical Amendments

"Your Committee has amended this measure by making technical nonsubstantive amendments for purposes of clarity, consistency, and style."

"Your Committee has amended this measure to correct a typographical error."

"Your Committee has amended this measure by changing the text of section 577-7.5, Hawaii Revised Statutes, at line 10 of page 1 to correspond to the printed version of the Hawaii Revised Statutes."

Example 10-19

SENATE SHORT FORM BILL RECOMMITTED TO COMMITTEE

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: S.B. No. 75
S.D. 1

Honorable (Name)
President of the Senate

State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Hawaiian Affairs, to which was referred
S.B. No. 86 entitled:

"A BILL FOR AN ACT RELATING TO HAWAIIAN AFFAIRS,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the law
relating to Hawaiian Affairs.

Prior to the hearing on this measure, your Committee posted
and made available for public review a proposed S.D. 1, which
amends this measure by deleting its contents and replacing it with
language to authorize the Department of Hawaiian Home Lands to
engage in the operation of medical cannabis dispensaries.

Your Committee has amended this measure by adopting the
proposed S.D. 1.

As affirmed by the record of votes of the members of your
Committee on Hawaiian Affairs that is attached to this report,
your Committee is in accord with the intent and purpose of S.B.
No. 86, as amended herein, and recommends that it be recommitted
to your Committee on Hawaiian Affairs, in the form attached hereto
as S.B. No. 86, S.D. 1, for further consideration.

Respectfully submitted on
behalf of the members of the
Committee on Hawaiian
Affairs,

(NAME), Chair

Example 10-20

HOUSE SHORT FORM BILL RECOMMITTED TO COMMITTEE

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: H.B. No. 1659
H.D. 1

Honorable (Name)
Speaker, House of Representatives
_____ State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Health, to which was referred H.B. No. 1659
entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

begs leave to report as follows:

The purpose of this measure is to effectuate its title.

H.B. No. 1659 was introduced as a short-form bill, which is
sometimes referred to as a "vehicle" bill primarily used to
introduce a bill containing only a general idea as to the purpose
of the bill without specific details in the long form.

Your Committee has amended the bill to provide the
substantive contents of the bill in long form so that a public
hearing may be properly held on its substantive contents.

The purpose of this measure is to authorize a pharmacy to
provide a customized patient medication package to any patient of
an institutional facility or any member of the general public upon
consent, with a valid prescription, and in compliance with
labeling and dispensing requirements.

As affirmed by the record of votes of the members of your
Committee on Health that is attached to this report, your
Committee is in accord with the action to report out H.B. No.
1659, as amended herein, and recommends that it be recommitted to
your Committee on Health, for the purpose of holding a public
hearing thereon, in the form attached hereto as H.B. No. 1659,
H.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Health,

(NAME), Chair

Example 10-21

STANDING COMMITTEE REPORT FOR RESOLUTION RECOMMENDING ADOPTION

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: H.C.R. No. 70

Honorable (Name)
President of the Senate
_____ State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred
H.C.R. No. 70 entitled:

"HOUSE CONCURRENT RESOLUTION AUTHORIZING THE SALE OF A LEASE
OF CERTAIN SUBMERGED LANDS AT KANEOHE BAY, KANEOHE, OAHU, FOR
RECREATIONAL BOAT PIER PURPOSES, BY PUBLIC AUCTION,"

begs leave to report as follows:

The purpose and intent of this measure is to authorize the
lease of state submerged lands.

More specifically, this measure authorizes the Board of Land
and Natural Resources to lease a portion of state submerged lands
seaward of the property located in Kaneohe Bay, Kaneohe, Oahu, for
recreational boat pier purposes.

Your Committee received testimony in support of this measure
from the Department of Land and Natural Resources.

Your Committee finds that section 171-53, Hawaii Revised
Statutes, requires the Board of Land and Natural Resources to
obtain authorization from the Legislature to engage in disposition
of state submerged lands. The Board of Land and Natural Resources
seeks to lease submerged lands seaward of Tax Map Key: (1) 4-4-
022:032 for recreational boat pier purposes, subject to the terms,
covenants, and conditions set forth in the lease. Your Committee
further finds that this measure expresses the requisite
legislative approval so that the Board of Land and Natural
Resources may lease those state submerged lands.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 70 and recommends its adoption.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,

(NAME), Chair

Example 10-22

RECOMMENDATION PARAGRAPHS

Bills; Single Referral (For Bills Up for Second Reading and Placed on Calendar for Third Reading)

Unamended

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee is in accord with the intent and purpose of [Bill No.] and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] that are attached to this report, your Committees are in accord with the intent and purpose of [Bill No.] and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Amended

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee is in accord with the intent and purpose of [Bill No.], as amended herein, and recommends that it pass Second Reading in the form attached hereto as [Bill No. with Draft No.], and be placed on the calendar for Third Reading.

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] that are attached to this

report, your Committees are in accord with the intent and purpose of [Bill No.], as amended herein, and recommend that it pass Second Reading in the form attached hereto as [Bill No. with Draft No.], and be placed on the calendar for Third Reading.

**Bills; First Committee of a Double or Triple Referral
(For Bills Up for Second Reading and Referral to Next Committee)**

Unamended

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee is in accord with the intent and purpose of [Bill No.] and recommends that it pass Second Reading and be referred to your Committee on [Committee Name].

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] that are attached to this report, your Committees are in accord with the intent and purpose of [Bill No.] and recommend that it pass Second Reading and be referred to your Committee on [Committee Name].

Amended

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee is in accord with the intent and purpose of [Bill No.], as amended herein, and recommends that it pass Second Reading in the form attached hereto as [Bill No. with Draft No.], and be referred to your Committee on [Committee Name].

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] that are attached to this report, your Committees are in accord with the intent and purpose of [Bill No.], as amended herein, and recommend that it pass Second Reading in the form attached hereto as [Bill No. with Draft No.], and be referred to your Committee on [Committee Name].

Bills; Second Committee of a Triple Referral (For Bills to be Referred to Next Committee)

Unamended

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee is in accord with the intent and purpose of [Bill No.] and recommends that it be referred to your Committee on [Committee Name].

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] that are attached to this report, your Committees are in accord with the intent and purpose of [Bill No.] and recommend that it be referred to your Committee on [Committee Name].

Amended

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee is in accord with the intent and purpose of [Bill No.], as amended herein, and recommends that it be referred to your Committee on [Committee Name] in the form attached hereto as [Bill No. with Draft No.].

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] that are attached to this report, your Committees are in accord with the intent and purpose of [Bill No.], as amended herein, and recommend that it be referred to your Committee on [Committee Name] in the form attached hereto as [Bill No. with Draft No.].

Bills; Last Committee of a Double or Triple Referral (For Bills Up for Third Reading Only)

Unamended

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee is in accord with the intent and purpose of [Bill No.] and recommends that it pass Third Reading.

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] that are attached to this report, your Committees are in accord with the intent and purpose of [Bill No.] and recommend that it pass Third Reading.

Amended

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee is in accord with the intent and purpose of [Bill No.], as amended herein, and recommends that it pass Third Reading in the form attached hereto as [Bill No. with Draft No.].

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] that are attached to this report, your Committees are in accord with the intent and purpose of [Bill No.], as amended herein, and recommend that it pass Third Reading in the form attached hereto as [Bill No. with Draft No.].

**Short Form Bill
(For Recommittal as Amended--Senate Version)**

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee is in accord with the intent and purpose of [Bill No.], as amended herein, and recommends that it be recommitted to your Committee on [Committee Name] in the form attached hereto as [Bill No.], S.D. 1, for further consideration.

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] that are attached to this report, your Committees are in accord with the intent and purpose of [Bill No.], as amended herein, and recommend that it be recommitted to your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] in the form attached hereto as [Bill No.], S.D. 1, for further consideration.

Short Form Bill
(For Recommittal as Amended--House Version)

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee is in accord with the action to report out H.B. No. [Bill No.], as amended herein, and recommends that it be recommitted to your Committee on [Committee Name], for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. [Bill No. with Draft No.].

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Committee Name] that are attached to this report, your Committees are in accord with the action to report out H.B. No. [Bill No.], as amended herein, and recommend that it be recommitted to your Committees on [Primary Committee Name] and [Secondary Referral Committee Name], for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. [Bill No. with Draft No.].

Conference Bill
(Up for Final Reading)

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of [Bill No. with Draft Nos.], as amended herein, and recommends that it pass Final Reading in the form attached hereto as [Bill No. with Draft Nos.]

**Resolutions
Single Referral
(Up for Adoption)**

Unamended

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee concurs with the intent and purpose of [Resolution No.] and recommends its adoption.

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] that are attached to this report, your Committees concur with the intent and purpose of [Resolution No.] and recommend its adoption.

Amended

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee concurs with the intent and purpose of [Resolution No.], as amended herein, and recommends its adoption in the form attached hereto as [Resolution No. with Draft No.].

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] that are attached to this report, your Committees concur with the intent and purpose of [Resolution No.], as amended herein, and recommend its adoption in the form attached hereto as [Resolution No. with Draft No.].

Resolutions
Last Committee of a Double or Triple Referral Resolution
(Up for Adoption)

Unamended

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee concurs with the intent and purpose of [Resolution No.] and recommends its adoption.

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] that are attached to this report, your Committees concur with the intent and purpose of [Resolution No.] and recommend its adoption.

Amended

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee concurs with the intent and purpose of [Resolution No.], as amended herein, and recommends its adoption in the form attached hereto as [Resolution No. with Draft No.].

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] that are attached to this report, your Committees concur with the intent and purpose of [Resolution No.], as amended herein, and recommend its adoption in the form attached hereto as [Resolution No. with Draft No.].

Resolutions
First Committee of a Double or Triple Referral Resolution
or a Second Committee of a Triple Referral Resolution
(For Referral to Next Committee)

Unamended

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee concurs with the intent and purpose of [Resolution No.] and recommends that it be referred to your Committee on [Committee Name].

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] that are attached to this report, your Committees concur with the intent and purpose of [Resolution No.] and recommend that it be referred to your Committee on [Committee Name].

Amended

Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee concurs with the intent and purpose of [Resolution No.], as amended herein, and recommends that it be referred to your Committee on [Committee Name] in the form attached hereto as [Resolution No. with Draft No.].

Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary Referral Committee Name] and [Secondary Referral Committee Name] that are attached to this report, your Committees concur with the intent and purpose of [Resolution No.], as amended herein, and recommend that it be referred to your Committee on [Committee Name] in the form attached hereto as [Resolution No. with Draft No.].

Conference Resolution (Up for Adoption)

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference concurs with the intent and purpose of [Resolution No. with Draft No.], as amended herein, and recommends its adoption in the form attached hereto as [Resolution No. with Draft No.]

Advise and Consent

Advise and Consent--Approval

Board and Commission Appointments

As affirmed by the record(s) of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the nominee(s), has found the nominee(s) to be qualified for the position(s) to which nominated and recommends that the Senate advise and consent to the nomination(s).

Cabinet Appointments

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate advise and consent to the nomination.

Consent

Judicial Appointments

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the appointee, has found the appointee to be qualified for the position to

which appointed and recommends that the Senate consent to the appointment.

Advise and Consent--Rejection

Board, Commission, and Cabinet Appointments

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the nominee, recommends that the Senate not advise and consent to the nomination.

Advise and Consent--Lack of a Majority of Votes to Make a Recommendation

Board, Commission, and Cabinet Appointments

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the nominee, lacks a majority of votes to recommend that the Senate advise and consent to the nomination and returns the nomination to the full Senate for consideration in accordance with Senate Rule 37(5), which states: "The final question on appointments made by the Governor which require the confirmation or consent of the Senate shall be: "Will the Senate confirm (or consent) to this appointment?""

Consent--Rejection

Judicial Appointments

As affirmed by the record of votes of the members of your Committee on [Committee Name] that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the appointee, recommends that the Senate not consent to the appointment.

Appendix A

CONSTITUTIONAL AND STATUTORY PROVISIONS RELATING TO LEGISLATION

1. Constitutional Provisions:

Article III			
section	10	-	Sessions; Commencement; Duration; Recess
	12	-	Organization; Discipline; Rules; Procedure; Bill Introduction; Cut-off
	13		Quorum for Final Passage of Bills
	14	-	Bills; Enactment
	15	-	Passage of Bills
	16	-	Approval or Veto; Reconsideration after Adjournment
	17	-	Procedures upon Veto
Article V			
section	6	-	Limit on Departments
Article VI			
section	7	-	Supreme Court's Rulemaking Powers
Article VII			
section	2	-	Income Taxation
	4	-	Appropriations for Private Purpose Prohibited
	5	-	Expenditure Controls
	8	-	The Budget
	9	-	Legislative Appropriations; Procedures; Expenditure Ceiling
	11	-	Lapsing of Appropriations
	12	-	Definitions; Issuance of Indebtedness
	13	-	Debt Limit; Exclusions
Article VIII			
section	1	-	Political Subdivisions; Creation; Powers
	2	-	Local Self-Government; Charter
	3	-	Taxation and Finance
	4	-	Mandates; Accrued Claims
	5	-	Transfer of Mandated Programs
	6	-	Statewide Laws

Article X			
section	3	-	Power of Board of Education
	6	-	Board of Regents; Powers
Article XI			
section	5	-	Natural Resources: General Laws Required; Exceptions
	8	-	Nuclear Energy
Article XII			
section	1	-	Hawaiian Homes Commission Act
	3	-	Compact Adoption; Procedures after Adoption
Article XVI			
section	3.5		Salary Commission
	13	-	Plain Language
Article XVII			
section	1	-	Revision and Amendment; Methods of Proposal
	3	-	Amendments Proposed by Legislature
	4	-	Veto

2. Statutory Provisions:

Laws Generally

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See also:

Chapter 26	Executive and Administrative Departments
Chapter 26H	Sunset Law - Hawaii Regulatory Licensing Reform Act
Chapter 37	Budget
Chapter 39	State Bonds
Chapter 39A	Special Purpose Revenue Bonds
Chapter 42F	Grants, Subsidies, and Purchases of Services
Chapter 91	Hawaii Administrative Procedure Act
Chapter 92	Sunshine Law - Public Agency Meetings and Records
Chapter 92F	Uniform Information Practices Act

Appendix C

SENATE FLOOR AMENDMENT

FLOOR AMENDMENT NO. _____ Date _____

TO: **Senate Bill No. 3080, S.D. 2**

SECTION 1. Senate Bill No. 3080, S.D. 2, is amended by deleting the existing Section 4 and replacing it with the following:

"SECTION 4. Act 38, Session Laws of Hawaii 2019, is amended by amending part V to read as follows:

"PART V. ISSUANCE OF BONDS

SECTION 9. General obligation bonds may be issued, as provided by law, to yield the amount that may be necessary to finance projects authorized in part II and listed in part V of this Act; provided that the sum of the general obligation bonds so issued shall not exceed [~~\$9,355,000.~~] \$23,349,000."

SECTION 2. Senate Bill No. 3080, S.D. 2, is amended by deleting Section 5.

SECTION 3. Senate Bill No. 3080, S.D. 2, is amended by renumbering sections 6, 7, 8, and 9 to Sections 5, 6, 7, and 8.

Offered by: _____ () Carried
() Failed to Carry
() Withdrawn

(See chapter 5 on Ramseyer format, item 8(d), on page 129 of this manual. In addition to above, the Senate requires the complete bill being amended to be amended to conform to the floor amendment and submitted with the floor amendment.)

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