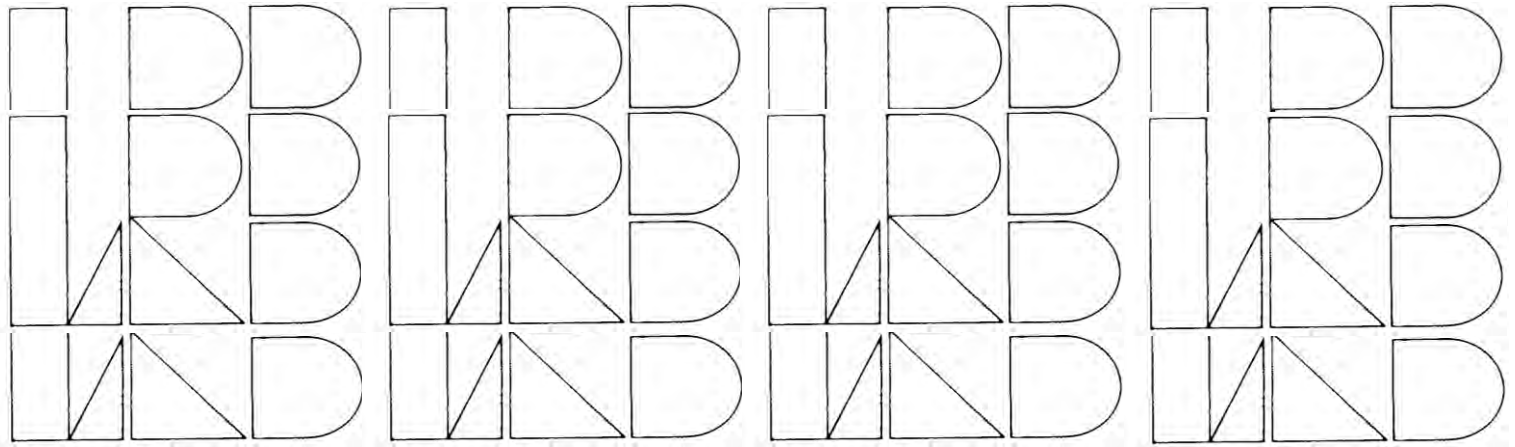


HAWAII LEGISLATIVE DRAFTING MANUAL

TENTH EDITION



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Tenth 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 furnish general guidelines and accepted drafting conventions for the agencies and individuals who prepare measures for introduction in the Hawaii Legislature. The Drafting Manual has evolved over the many years from a compendium of forms and helpful hints in legislative drafting to what is used as a text by the Bureau and others for instructing each session's contingent of new legislative staffers.

This tenth revised edition of the 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 drafting manual what it is today. Many current and former Bureau staff members have contributed to this revised edition. The Bureau is particularly grateful to staff in the House and Senate Research offices for their considerable input and suggestions for this edition.

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December 2012

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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.* As such, 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) Strategies for carrying out the purpose must be thought through; *i.e.*, how is the purpose to be accomplished?
 - (C) Application of the strategies to real life situations must be tested and found workable and consistent to achieve the desired purpose.
 - (D) 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, 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 thought process may go something like this:

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.

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 something will be allowed to take off a certain amount from the homeowner's state income tax liability.

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

- (1) What precisely can be planted? Are we talking about trees, hedges, shrubs, etc.?
- (2) 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?
- (3) 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?
- (4) What is the amount of tax revenue that will be lost if this kind of program is instituted? Can the State afford this loss?
- (5) 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?

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, finding out the number of homeowners with yards will help indicate the range of possible revenue losses.

In addition to the considerations associated with the concept, to better the chances of success of passing the bill, thought must be given to possible objections by others. For example, will tax administrators be opposed to 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?

Once a good set of specifications are developed, then 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:

- (1) **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.
- (2) **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.

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 2010 supplement is being consulted during the time period between May 2011 and December 2011, the drafter is cautioned to ascertain whether legislation passed during the 2011 legislative session changed the language of the applicable section that the drafter is amending.

- (3) **Select and organize the concepts.** The drafter must select the most appropriate concepts and organize them into a coherent plan of organization and arrangement. The specific concepts must cover only the intended areas, leave no gaps, not overlap or duplicate each other, and must not contradict each other.
- (4) **Prepare the draft.** Preparation of the draft usually involves the following steps:
 - (A) Preparation of the first draft;
 - (B) Necessary revisions;
 - (C) Checking definitions, cross references, and existing laws affected;
 - (D) Cross-checking with other bodies of law (federal, county ordinance); and
 - (E) Conforming and improving the style.

Chapter 2

STATUTORY AND CONSTITUTIONAL DRAFTING

Part I. 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. They are:

- (1) Bills amending laws in the Hawaii Revised Statutes (Example 2-1);
- (2) Bills for general (uncodified) laws not intended or not appropriate for inclusion in the Hawaii Revised Statutes (Example 2-2);
- (3) Appropriation bills (actually a subset of No. 2, but common enough to justify a separate category) (Example 2-3); and
- (4) Bills proposing constitutional amendments (Example 2-4).

As much as their general appearances may vary, the different types of bills share certain characteristics, including:

- (1) General characteristics relating to structure and organization (see part II of this chapter);
- (2) Using as an underlying base existing statutory material, as well as the style, grammar, organization, and word usage conventions followed in the Hawaii Revised Statutes (see chapter 3);
- (3) Showing changes being made to existing law using the Ramseyer format (see chapter 5) that uses:
 - (A) Prefatory language to describe the statutory unit of organization being added, amended, or repealed;
 - (B) Specific conventions showing material that must be set forth as the "base" to use for amendment or repeal; and
 - (C) The use of bracketing and striking through to show language deleted; and the use of underscoring to show language added.

Part II. Elements of the Bill

The parts of a bill (as shown in Examples 2-1 to 2-4) 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*, 564 P.2d 135 (1977), and *Taomae v. Lingle*, 118 P.3d 1188 (2005).

Although in the past in Hawaii, titles to bills have been amended, the veto message to S.B. No. 1209-77, Session Laws of Hawaii 1977 and Attorney General Letter Opinion dated April 11, 1978, indicate that titles should not be amended.

3. **Enacting Clause**

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

4. **Body** (Not necessarily in the complete order listed.)

- a. Short Title

While not at all 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) Chapter 514B, HRS

§514B-1 Title. This chapter shall be known as the "Condominium Property 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 (committee and floor amendments); (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).

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.

If the drafter believes that the findings and purpose should be published in the Hawaii Revised Statutes, then 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).

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 be dependent 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 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 changing 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 is a matter of compelling state interest, 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 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, 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, and the transfer of patients, mandatory standard medical record keeping, 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 213, SLH 1973

SECTION 1. The purpose of this Act is to expressly restate, reiterate, and declare the intent of the legislature in enacting section 663-7, Hawaii Revised Statutes, concerning the survival of death actions, was originally and is now to cover and include as an element of damages recoverable by the

legal representative of the deceased in behalf of the estate of the deceased, any likely earnings during the life expectancy of the deceased, diminished by the probable cost of his own maintenance and provision for his family, reduced to present worth.

Note: Specific gender references are no longer the preferred drafting style.

(7) A bill when the legislator specifically requests a purpose section.

c. Definitions

The purpose of a definition is to achieve clarity and consistency without burdensome repetition. The definition should sufficiently frame and identify for the reader what the term means within the context and application of the law. However, the 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 but not limited to"; and if neither of these is accurate, the definition may use "refers to."

Avoid drafting definitions that state the obvious, are for terms that are used only once, or are tortured. 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."

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 chapters 26 and 91 of the Hawaii Revised Statutes. 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, section 1, 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 create new ones.

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

Example: Section 635-3, HRS

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

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).

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, section 1.

i. HRS Section Order in Bills

When drafting a bill, generally, the 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. 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 are 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. If the transition provisions are located in a separate section at the end of the bill, it is easier to exclude from the Hawaii Revised Statutes without destroying the context and continuity of the permanent provisions.

Some examples of transition provisions are items 12 to 15 of chapter 4. 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 beginning of Chapter 3 for further discussion of codified versus uncoded law.)

k. Conforming Amendments

Amend all laws affected by the bill. 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

Example:

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

(Set forth section to be repealed.)

Caveat. When using the Ramseyer format, repealed sections are set forth in full. See chapter 5.

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.

m. 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. The savings clause is usually 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 one because retroactive application of such legislation would be a violation of the prohibition against *ex post facto* laws found 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.

n. 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 8.

o. Severability

A severability (separability) 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. The language recommended by the Commissioners on Uniform State Laws is:

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.

p. 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.

q. Hawaiian Homes Commission Act; Consent of Congress to Amendments

See chapter 4, part IV.

r. Ramseyer Provision

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.

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. The effective date on most bills is "This Act shall take effect upon its approval."

If the drafter or legislator wishes to provide for an effective date other than the approval date, it must be set forth in the bill. Many tax bills, in particular, become effective at the end or beginning of a fiscal or calendar year. Nearly all appropriation measures take effect at the beginning of a fiscal year (July 1). For further specifics, see chapter 4, section 2b.

5. **Special Bill Forms**

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. Short form bills are used occasionally, primarily for convenience. This device gives a legislative committee the opportunity of examining the general idea contained in the bill before drafting all of the specific details in long form. See Appendix B for an example of a short form bill and its contents.

b. Examples of Amendments and Repeals

See Example 2-4 for an example of a proposed constitutional amendment.

See Example 2-2 for an example of a bill proposing a new general law not intended for inclusion in the Hawaii Revised Statutes.

See chapter 5, sections 3, 4, and 5, for examples of amendments to, and additions or repeals of, provisions in the Hawaii Revised Statutes.

See Appendices E and F for floor amendments to a bill.

Example 2-1

BILL AMENDING HAWAII REVISED STATUTES

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
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 as

2 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

5 following persons:

Subsection (a)

6 (1) National banks;

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

8 organized for:

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

9 (A) The establishment and conduct of

10 cemeteries no part of:

Subparagraph (A)
(note capitalization)

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

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

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

17

S.B. NO.

1	provided [7] that the exemption shall apply	Subparagraph (A) continued
2	only to the activities of the persons in the	
3	conduct of cemeteries; and	
4	(B) Any activity the primary purpose of which is	Subparagraph (B)
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;	
8	provided [7] that such corporations, companies,	Paragraph (2) continued
9	associations, and trusts perform for the benefit of	
10	their stockholders.	
11	(b) The department shall adopt rules [and regulations]	Subsection (b)
12	concerning exemptions and [may] for good cause <u>may</u> extend <u>the</u>	
13	<u>time for registration or</u> 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.	
16	<u>(c) As used in this section "person" shall only include</u>	Subsection (c)
17	<u>those entities set forth in subsection (a) (1) and (2)."</u>	
18	SECTION 2. Statutory material to be repealed is bracketed	Ramseyer Provision
19	and stricken. New statutory material is underscored.	
20	SECTION 3. This Act shall take effect upon its approval.	Effective Date

INTRODUCED BY: _____

Example 2-2

UNCODIFIED SESSION LAW; NO HRS CHAPTER OR SECTION REFERENCE

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2012
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 which 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 such 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.

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

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.

Example 2-3

**UNCODIFIED SESSION LAW; APPROPRIATION
MEASURES**

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2012
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__ for the purpose of
4 compensating certain persons or their providers of services pursuant
5 to chapter 351, Hawaii Revised Statutes.

Appropriation

6 SECTION 2. The sum appropriated shall be deposited into the
7 criminal injuries compensation fund to be used for payments as
8 authorized by the criminal injuries compensation commission. The
9 sum appropriated shall be expended by the department of public
10 safety for the purposes of this Act.

**Expenditure
Authorization**

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

Effective Date

INTRODUCED BY: _____

Example 2-4

CONSTITUTIONAL AMENDMENT

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2012
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:

7 "QUALIFICATIONS

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 State of
16 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: _____

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. The Hawaii Revised Statutes, as the official codified laws of the State, is arranged according to broad, general subject areas. Only laws of a general and permanent nature are codified. (See Act 29, Session Laws of Hawaii 1966; Act 16, Session Laws of Hawaii 1968; section 23G-14, Hawaii Revised Statutes.) 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).

Drafters need to be familiar with the style conventions used in the Hawaii Revised Statutes because most bills propose additions, deletions, or amendments to one or more of those provisions. As such, material 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 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 divided into four additional levels), 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 are three of the first sections within chapter 171. 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, 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, would indicate the chapter, article, and section number of the law.

Example 2-1 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 Defense - Adjutant General (also the Director of Civil Defense) (see section 26-21, HRS)
- h. Department of Education - Board of Education - Chairperson of the Board of Education - Superintendent of Education (see section 26-12, HRS)
- i. Department of Hawaiian Home Lands - Hawaiian Homes Commission - Chairperson of the Hawaiian Homes Commission (see section 26-17, HRS)
- j. Department of Health - Director of Health (see section 26-13, HRS)
- k. Department of Human Resources Development - Director of Human Resources Development (see section 26-5, HRS)
- l. Department of Human Services - Director of Human Services (see section 26-14, HRS)
- m. Department of Labor and Industrial Relations - Director of Labor and Industrial Relations (see section 26-20, HRS)
- n. 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)

- o. Department of Public Safety - Director of Public Safety (see section 26-14.6, HRS)
- p. Department of Taxation - Director of Taxation (see section 26-10, HRS)
- q. Department of Transportation - Director of Transportation (see section 26-19, HRS)
- r. University of Hawaii - Board of Regents - Chairperson of the Board of Regents - President of the University of Hawaii (see section 26-11, HRS)
- s. For the correct names of other administrative agencies and their heads, check the Hawaii Revised Statutes.
- t. 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. 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. Use "may" to express authority, power, or privilege; use "shall" to express a duty, obligation, or requirement; use "may 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 neuter term. Do not use words such as "chairman" and "salesman"; use

gender neutral terms such as "chairperson" and "salesperson." See the examples in item 18 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.

3. Sections and Paragraphs

- 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 necessary to subdivide a section, 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 chapter 6, item 3, for an example 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, such as section 237-13, HRS.

- d. See Example 2-1 for an example of the prevalent format for the division and designation of material in the Hawaii Revised Statutes.

- e. 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). 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.

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)*.

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 on the Ramseyer format.

4. 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 4b(1) to (3).
- 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.

5. Section Titles

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

§76-12 General powers and duties of the director.

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

§84-17 Requirements of disclosure.

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

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

6. 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 examples in chapter 6, item 7b.

7. 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 ...

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

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

- b. **Restrictive and nonrestrictive clauses.** Although the use of "who" causes little heartache, the distinction between "that" and "which" eludes many drafters.

- (1) **That.** "That" is the defining or restrictive pronoun. Use "that" to introduce restrictive clauses, that is, clauses that are essential to the meaning of the sentence; 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 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."

8. Style

The position of words in a sentence indicate their relationship. Badly 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. Short adverbs may be inserted in some instances, but longer interruption should be avoided if possible, by placing the interrupting clause at the beginning of the sentence, as in this example:

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: (1) for the placement of a relative clause (in which case the relative pronoun should come, in most cases, immediately after its antecedent, as in "A person who knowingly disrupts ..."); or (2) when a group of words must be understood together.

Many sentences in bills have verbs in the infinitive form or verb phrases consisting of a helping verb with a main verb: shall + (verb), may + (verb). 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:

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:

The appealing party may order a transcript, from the center for alternative dispute resolution, of any parts of the proceedings it considers necessary. The transcript order shall be in writing. 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 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? The drafter probably meant "... shall inform the private school by August 15..." and should have written it that way.

Here are other examples of misplaced modifiers:

"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.

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.

9. Punctuation

- a. Punctuate carefully. Recast the sentence if a change in punctuation might change its meaning.
- b. In a series of three or more items, insert a comma before the conjunction and the final item. See chapter 6, item 1.

Caveat. In the Hawaii State Constitution, the comma is *not* inserted between the conjunction and the final item.

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

Caveat. This does not apply to the Hawaii State Constitution. See item 17b.

- d. A nonrestrictive clause is set off by commas, but a restrictive use, which 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, thus:

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

10. 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 be all lower case.

- 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) or refers generally to other states.
- f. Note on capitalization: "University of Hawaii" and "Office of Hawaiian Affairs" are capitalized.

11. 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, 235-2.3, or 235-3.5, Hawaii Revised Statutes, or when referencing the Internal Revenue Code as it is defined in those sections.
- b. Refer to Public Law or Public Statute, as appropriate:

Example:

Section 8 of the United States Housing Act of 1937 (chapter 856, 50 Stat. 88), 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:

Example:

In Text

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

Parenthetically

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

12. 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--\$1, \$1.25, \$1,500.
- e. Use Arabic numbers for references to section and act numbers.
- f. Use figures to express percentages.

13. Definitions

- a. Definitional sections and subsections should set forth definitions in alphabetical order to facilitate finding a 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.
- f. Do not place substantive provisions in definition sections. Do not include artificial concepts 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 ...*).

14. 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.

15. 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," "%."
- 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 chapter 12," or "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, refer to the particular section in the Hawaii Revised Statutes (*i.e.*, section 1-26, Hawaii Revised Statutes).

- h. Use "a year" instead of "per annum."
- i. **Comprise vs. compose.** "Comprise" *means to include, contain, consist of*; "compose" *means to make up*. The parts *compose* (make up) the whole; the whole *comprises* (contains) the parts. Note the use of "of"--the whole *is composed of* (not is comprised of) the parts.

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

Nonfat milk has *fewer* calories than whole milk.

We have *less* milk than I thought.

- k. Other words and phrases that should be avoided and certain preferred usages are as follows (see item 16 for gender-neutral terms):

Do Not Use	Use
absolutely null and void	void
aforesaid	-
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

Do Not Use	Use
is hereby required	shall
is hereby vested with power and authority and it shall be its duty to	shall
member of a partnership	partner
no later than June 30	before July 1
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
preceding section	section 1 (specific number)
prior to	before
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

16. 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*.

17. 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 as follows:

`...established by section 2 of this article...`
 (used when referring to a different article)

`...established by this section...`

`...established by Section 2 of Article XVIII...`
- d. *But* if a statute refers to a constitutional provision, use lower case. See item 10a.
- e. The word "percent" within the Constitution is one word.

18. 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
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

Do not use	Use
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
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
waitress	waiter

19. 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.

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

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 sorts of issues, both technical and substantive, the Hawaii Revised Statutes is full of 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 see 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.

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 - Up to \$1,000 fine and 30 days imprisonment. See sections 706-640 and 706-663.
- (2) Misdemeanor - Up to \$2,000 fine and 1 year imprisonment. See sections 706-640 and 706-663.
- (3) Class C felony - Up to \$10,000 fine and 5 years imprisonment. See sections 706-640 and 706-660.
- (4) Class B felony - Up to \$25,000 fine and 10 years imprisonment. See sections 706-640 and 706-660.

- (5) Class A felony - Up to \$50,000 fine and 20 years imprisonment. See sections 706-640 and 706-659.

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

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 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 (*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).

Example:

Violation of this section shall be a class C felony; provided the maximum term of imprisonment shall be not more than three years, and the maximum fine shall be not more than \$100,000.

A drafter desiring to impose mandatory minimum penalties can also do so while using the 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.

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

2. Effective Dates

a. Generally

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

Except for emergencies (see Appropriation Measures Passed Before Budget in chapter 8), appropriation bills are drafted to take effect on July 1 to coincide with the beginning of the State's fiscal year.

For bills authorizing the issuance of special purpose revenue bonds pursuant to chapter 39A, Hawaii Revised Statutes, because the law limits the bond issuance authorization to a time period not to exceed five years, either the effective date language should include a provision that rescinds the authorization (*e.g.*, "This Act shall take effect upon its approval; provided that authority to issue special purpose revenue bonds established pursuant to this Act shall expire five years after the effective date of this Act") or a separate section of 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 8-6 and 8-7 in chapter 8.

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.

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) are 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), the Public Utilities; Franchise Tax Law (chapter

240), the Taxation of Banks and other Financial Corporations Law (chapter 241), and the taxation of insurance premiums (section 431:7-202).

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), the General Excise Tax Law (chapter 237), the Transient Accommodations Tax Law (chapter 237D), the Use Tax Law (chapter 238), the Fuel Tax Law (chapter 243), the Liquor Tax Law (chapter 244D), the Tobacco Tax Law (chapter 245), and the Conveyance Tax Law (chapter 247) may take effect on July 1.

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

c. Retroactive Effective Date

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

See section 1-3, HRS.

d. Effective Dates for Different Parts of the Same 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__.

3. Rulemaking Powers

a. Generally

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, Hawaii Revised Statutes, provides that rules may be adopted, amended, or repealed. Rules are not promulgated nor are regulations authorized by chapter 91. 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: This provision exempts the agency from the comparatively time-consuming aspects of the 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 the proposed rules from gubernatorial approval, see section 103D-202, HRS.

4. Disposition of Public Moneys Received

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

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. Appropriations from other funds should be lapsed. See chapter 8's discussion on lapsing.

b. Nonlapsing of Appropriation

Example:

The appropriation made by Act 252, Session Laws of Hawaii 1994, under DEF 112 (Services to Veterans), for the burial of Filipino World War II veterans, shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all moneys from the appropriation that are unencumbered as of June 30, 1996, shall lapse as of that date.

6. Relationship to Another Pending Bill

If S.B. 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 S.B. 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 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 H.B. 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

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

Caveat. Article VIII, section 1, of the Hawaii State Constitution prevents the application of a substantive law to a county by name. It 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

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.

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.

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 SSCR 53 on S.B. No. 303 and HSCR 455 on H.B. 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. Employment or Appointment of Noncivil Service Personnel

The commission may employ, without regard to chapter 76, and at pleasure dismiss persons it finds necessary for the performance of its functions and fix their compensation.

or

The governor shall appoint, without regard to chapter 76, a _____ 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 or federal employee benefit program generally applicable to officers and employees of the State.

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

11. 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.

12. 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 employees who occupy civil service positions and whose functions are transferred to the department of _____ by this Act shall retain their civil service status, whether permanent or temporary. Employees shall be transferred without loss of salary, seniority (except as prescribed by applicable collective bargaining agreements), retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state

personnel laws and this Act; provided that the employees possess the minimum qualifications and public employment requirements for the class or position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

Any employee who, prior to this Act, is exempt from civil service and is transferred as a consequence of this Act may retain the employee's exempt status, but shall not be appointed to a civil service position as a consequence of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, vacation or sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act; provided that the employees possess legal and public employment requirements for the position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable employment and compensation laws. The director of _____ may prescribe the duties and qualifications of these employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.

13. 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 transportation to implement provisions of the Hawaii Revised Statutes that are reenacted or made applicable to the department of land and natural resources by this Act shall remain in full force and effect until amended or repealed by the board of land and natural resources pursuant to chapter 91, Hawaii Revised Statutes. In the interim, every reference to the department of transportation or director of transportation in those rules, policies, procedures, guidelines, and other material is amended to refer to the department of land and natural resources or chairperson of the board of land and natural resources, as appropriate.

(See Act 272, Session Laws of Hawaii 1991, §28, third paragraph.)

14. 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 transportation, pursuant to the provisions of the Hawaii Revised Statutes, that are reenacted or made applicable to the department of land and natural resources by this Act shall remain in full force and effect. Effective July 1, 20__, every reference to the department of transportation or the director of transportation in those deeds, leases, contracts, loans,

agreements, permits, or other documents shall be construed as a reference to the department of land and natural resources or the board of land and natural resources, as appropriate.

(See Act 272, Session Laws of Hawaii 1991, §28, fourth paragraph.)

15. 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.

16. 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 such 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.

17. 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, or the legislation may only be necessary for a limited period of time.

(1) Act 248, Session Laws of Hawaii 2012:

SECTION 4. This Act shall take effect on July 1, 2012, and shall be repealed on June 30, 2022.

(2) Act 168, Session Laws of Hawaii 2012:

SECTION 4. This Act shall take effect upon its approval and shall be repealed on June 30, 2020.

b. Temporary Amendments to Existing Statutes

See Part III of this chapter 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.

18. 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.

19. 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 Hawaii State Constitution or Article I, section 10, of the United States Constitution.

20. 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.

21. 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 \$.

22. 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 269, SLH 1985, §§49-55. Among other things, this Act changed the Bank Examiner to the Commissioner of Financial Institutions and transferred certain functions from the Director of Regulatory Agencies to the Commissioner.

See also Act 65, SLH 1988, §§1, 2, changing, among other things, "horizontal property regime" to "condominium property regime".

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.

23. 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 statement of effect of bracketing and underscoring section (chapter 5, item 7).

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.

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

24. 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:

- (1) Transfer of boards and commissions, functions, personnel, or property within the structure of state government: Act 180, SLH 2006, sections 20 to 24.
- (2) Claims against the State: Act 8, SLH 2012.
- (3) Authorizing suits against the State: Act 395, SLH 1988.
- (4) Criminal Injuries Compensation payments: Act 157, SLH 1994.
- (5) Transfer of functions from county to State: Act 97, SLH 1965.
- (6) Transfer of functions from State to counties: Act 241, SLH 1978.
- (7) Issuance of Special Purpose Revenue Bonds: Act 94, SLH 2011. (See also chapter 8.)
- (8) Declaration of Findings with respect to General Obligation Bonds Authorized for Issuance: Act 172, SLH 2011. (See also chapter 8).
- (9) Disposition of Excess Revenues through an Income Tax Credit: Act 85, SLH 1994.

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 chapters 3 and 6.

- (4) Correct capitalization, particularly of the word State. See chapters 3 and 6.
- (5) Numbers should be written out if appropriate, see chapter 3, item 12.
- (6) Correct word usage. See chapter 3.

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. "Drop Dead" Provisions and Temporary Amendments to Laws

The number of measures enacting temporary amendments to laws has increased in recent years. 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. The amendments drop dead, *i.e.*, are repealed, on a specified date, and the law reverts to its preexisting form. These provisions can create drafting problems in the future if it not clear how the law will read when the amendments drop dead. 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, 2020, 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 before 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 loss of statutory provisions.

However, a more complex problem arises if there are intervening amendments. For example, if any amendments have been made to the provisions of section 000-00, Hawaii Revised Statutes (HRS), between the effective date of the Act referred to above and June 30, 2020, the amendments made before June 30, 2020, will be repealed as of that date because section 000-00 will be reenacted in the form in which it read *before all intervening amendments*. (See the note to section 103-22, HRS, in the 1992 Supplement explaining the loss of amendments made in 1987, 1988, 1989, and 1990, to section 103-22, HRS, due to failure in the 1991 legislative session to eliminate the drop dead and reenactment provision in Act 229, Session Laws of Hawaii 1987, extended by Act 200, Session Laws of Hawaii 1989.) In this situation, if the intent was to preserve the intervening amendments, the typical drop dead, or repeal, and reenactment language is insufficient.

This section will discuss some of the most common ways to address this problem. The first step, however, is to determine whether the statutory provisions being amended will drop dead.

The Revisor of Statutes has taken care of this problem for the drafter. Sections or parts of sections of HRS that will be repealed, or repealed and reenacted, have notes in italics at the front of the section or provision indicating the repeal and reenactment. See for example, section 235-17, HRS, in the 2010 supplement, which states:

§235-17 Motion picture, digital media, and film production income tax credit. *[Repeal and reenactment on January 1, 2016. L 2006, c 88, §4(2).]*

Scenarios and Examples

Drop dead provisions have been written in several ways. The purpose of these scenarios and examples 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 2006. In 2010, Act 1 is repealed.

Example 1: This Act shall take effect upon its approval and shall be repealed on June 30, 2010.

Assuming no intervening amendments, 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 existing section 000-00 in 2006. In 2010, 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 2010.

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.

Scenario 3: Act 1 amends section 000-00 in 2006. On June 30, 2010, 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 2010, 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, 2010:

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

As you can see, the section no longer makes sense and 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, 2010; 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, 2006. Act 1 is repealed on June 30, 2010. There is no reenactment provision. On July 1, 2007, 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. 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 2010 with no reenactment provisions and Act 2 has no provision to preserve the amendments made therein, no one knows how section 000-00 will read in 2010. 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 after a specific date.

Scenario 5: Act 1 amends section 000-00 in 2006. Act 1 is repealed in 2010 and section 000-00 is reenacted in the form in which it read before Act 1. Act 2 amends section 000-00 in 2007. 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 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 2010, both the amendments made in Acts 1 and 2 are repealed. It is unclear if this was the intent of the Legislature regarding Act 2. The Legislature could have meant the amendments made by Act 2 to be repealed in 2010. On the other hand, the Legislature could have intended to keep the amendments made by Act 2, but not Act 1. If this is so, it is up to the drafter to protect Act 2 amendments from repeal.

If the provisions of Act 2 are protected, section 000-00 will read as follows after June 30, 2010:

§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.

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 takes effect on July 1, 2010, is repealed on June 30, 2012, 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, 2010; provided that on July 1, 2012, 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 amendments made to section 000-1, Hawaii Revised Statutes, even though another, prior law (Act YYY, Session Laws of Hawaii 2009) contains a repeal and reenactment provision relating to the same section of law (section 000-1, Hawaii Revised Statutes):

SECTION X. This Act shall take effect on July 1, 2010; 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, 2011, pursuant to section 6 of Act YYY, Session Laws of Hawaii 2009.

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, 2009;
- (2) Part II shall take effect on June 29, 2009;
- (3) Part III shall take effect on July 1, 2009, and shall be repealed on June 30, 2015; 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, 2009; and
- (4) Part IV shall take effect on July 1, 2010, and shall be repealed on June 30, 2015; provided that section 000-5, Hawaii Revised Statutes, shall be reenacted in the form in which it read on June 30, 2010.

Here is a more complicated effective date in which the bill amends a section of law that has a preexisting repeal and reenactment provision that instructs the Revisor of Statutes to repeal and reenact a section of the Hawaii Revised Statutes on July 1, 2012, pursuant to section Y of a previously enacted session law (Act ZZZ). The effective date contained in the section below directs the Revisor of Statutes to retain the amendments made to the section of the Hawaii Revised Statutes by the bill, regardless of the repeal and reenactment instructions contained in section Y of Act ZZZ, Session Laws of Hawaii 2009, until June 30, 2013, and then, on July 1, 2013, the temporary amendment contained in the bill to which section X (see below) is attached will be repealed and the language of section 000-1, Hawaii Revised Statutes, will then revert to the language that existed on the day prior to the effective date of Act ZZZ back in 2009.

SECTION X. This Act shall take effect on July 1, 2010; provided that the amendment 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, 2012, by section Y of Act ZZZ, Session Laws of Hawaii 2009; provided further that this Act shall be repealed on June 30, 2013; and provided further that, on July 1, 2013, 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 2009.

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 amendments to a temporary amendment, in which merely preserving the amendments from repeal upon reenactment of a provision is insufficient.

Scenario 6: Act 1 amends section 000-00 in 2006. Act 1 is repealed in 2010, and section 000-00 is reenacted in the form in which it read before Act 1. Act 2 amends section 000-00 in 2007, 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 2010."

This scenario is a simple representation of how difficult things can become. To date, this problem has not become common. The drafter cannot protect the provisions of Act 2 merely by providing for their preservation after the repeal and reenactment. 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 must 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 the following amendments would be made to Act 1 in Act 2:

SECTION 2. Act 1, Session Laws of Hawaii 1994, 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 2010."

SECTION 3. Act 1, Session Laws of Hawaii 2006, 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, 2010, [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, 2010."

Scenario 7: Act 1 amends section 000-00 in 2006. Act 1 is to be repealed in 2010, 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 2007. Act 2 is also to be repealed in 2010 and section 000-00 is to be reenacted in the form in which it read before Act 1. In 2008, 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 bold face (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 2010."

This scenario is more complex than Scenario 6 and again is not yet common. The legislative drafter cannot protect the provisions of Act 3 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 after June 30, 2010.

Act 3 will have 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 cannot stand alone once the provisions of Act 1 and Act 2 are repealed in 2010."

SECTION 3. Act 1, Session Laws of Hawaii 2006, 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, 2010, 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 2007, 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, 2010, 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 2006]."~~

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, 2010.

The foregoing discussion gives a flavor of the problems 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 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.

Because of the uncertain status of amendments requiring the consent of Congress, the supplement to the Hawaii Revised Statutes may contain two versions of sections of the HHCA: (1) the version without the amended version requiring congressional consent and (2) the version for which congressional consent was needed or indicated.

In amending the HHCA, it is suggested that the drafter amend the version of the section requiring congressional consent. See section 215, HHCA as an example.

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. 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 declaration section* (see item 7), *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.

In addition, it is critical that the prefatory language introducing existing statutory language to be amended accurately refer to the statutory section or part of a section being amended. See for example, Act 182, Session Laws of Hawaii 1979, that effectively repealed pages of definitions unintentionally, and Act 147, Session Laws of Hawaii 1979, that effectively repealed subsections unintentionally.

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

1. Sequence of Repealing and Adding Material

- a. If the bill deletes material and adds new or different material, the drafter should follow the grammatical structure of the existing law in the proposed amendment. Always 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 its capitalization, spelling, or tense, the entire word is replaced by first enclosing it in brackets and stricken through; then inserting it in the correct form and underscored. See item 5b in chapter 6.

- c. 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."

2. Punctuation

Similarly, an amendment that changes punctuation in existing statutes is indicated by appropriate bracketing/strikethrough and underscoring. Also, do *not* insert new material *before* the punctuation.

Example:

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[~~7~~] 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."

3. Amendments

- a. 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 6, item 3, 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 the *caveat* at the beginning of this chapter.

(1) **Amending (all sections in) an entire chapter.**

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

[Set out text of chapter and show changes.]

(2) **Amending (all sections in) an entire part.**

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

[Set out text of part and show changes.]

(3) **Amending a section.**

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

[Set out text of section and show changes.]

(4) **Amending a subsection.**

SECTION . Section 000-3, Hawaii Revised
Statutes, is amended by amending subsection (b) to
read as follows:

[Set out text of subsection and show changes.]

(5) **Amending a paragraph or unit of organization lower than a subsection.**

Because the subsection is the lowest unit of organization that should be set out for amendment--no matter how minimal the change--if the section *is* divided into subsections, follow the example in number (4). If the section *is not* divided into subsections, follow the example in number (3).

For a "litmus paper" test as to whether a section is divided into subsections, see chapter 6, item 3.

(6) **Amending a definition in a section only containing definitions.**

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

[Set out text of definition and show changes.]

(7) **Amending section titles.**

SECTION . Section 000-1, Hawaii Revised Statutes, is amended by amending its title to read as follows:

[Set out section number and title and show changes.]

c. **Sections**

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, 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 11-20, Hawaii Revised Statutes, is amended to read as follows:

"§11-20 Transfers; name changes; initiated by clerk.

(a) The clerks shall use all reliable and pertinent information to keep the general register up to date. The county clerks may request information from, but are not limited to, the following sources:

- (1) The office of the lieutenant governor for any change of name;

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

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

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

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

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

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

~~clerk or the board of registration, shall entitle the voter to be returned to the old voting list by executive order].~~

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

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.

- d. **Subsections.** See chapter 6, item 3, for determining when a section has subsections.

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

Example: Hawaii Revised Statutes

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: 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)"). Amendments to subsections that are *not* contiguous (*e.g.*, subsections (b) and (d)) must be made in separate sections of the bill or may be amended in the same bill section using the second prefatory language example in chapter 6, item 4b.

The addition or deletion of entire subsections requires that the drafter set forth the entire section. See examples in items 4(b)(5) and 5(b)(4) 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."

e. **Definitions**

Examples:

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

"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 conforms to the standards of those sections but which 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."

or

SECTION . Section 515-2, Hawaii Revised Statutes, is amended by amending the definition of "real property" to read:

"(9) "Real property" includes [~~buildings, structures,~~] real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein."

4. New Material

- a. 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. Further, a grouping of sections under a heading (see chapter 445, HRS, for examples) may be treated as a part or subpart, even though not formally designated as such.

- b. **Prefatory Language**

The prefatory language indicates what is being added. Except for unusual circumstances, the numbering of new sections, parts, or chapters should be left for the Revisor of Statutes to designate.

- (1) **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:

[Set out text of new chapter with sections numbered -1, -2, etc. No underscoring needed. If a new chapter is divided into parts, the first section of each part should be a number ending with a "1", such as -1, -11, -21, etc.]

- (2) **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:

[Set out text of new part with sections numbered 321- , 321- , etc. No underscoring needed.]

- (3) **Forming a part out of existing sections.**

SECTION 3. 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.]

(4) **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.

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:

[Set out text of sections underscored.]

or

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 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.]

(5) **Adding a new subsection.**

SECTION . Section 000-02, Hawaii Revised Statutes, is amended to read as follows:

[Set out text of entire section with new subsection underscored.]

The addition of a new subsection to an existing section requires the section to be set forth in its entirety.

SECTION . Section 15A-3, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

(c) Any voter requesting a mailing ballot for a primary or special primary election who has not voted in a primary or special primary election since 1968 shall state the voter's selection of party ballot, nonpartisan ballot, or of only the official board of education ballot in the voter's request."

(6) **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."

(7) **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.

SECTION . Section 000-03, Hawaii Revised Statutes, is amended to read as follows:

or

SECTION . Section 000-04, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- (8) **Adding a new definition to a definitional section.** *If it is a section comprised entirely of definitions.*

SECTION . Section 000-01, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

[Set out text of definition underscored.]

The addition of a new definition to a section composed only of definitions requires only the new definition to be set forth. However, if the addition of the new definition will necessitate other amendments in the section (such as the renumbering of numbered definitions), the section or subsection should be set forth in its entirety.

Example:

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."

or

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.

5. Repeal

- a. A bill to repeal a chapter, part, or subpart need not set forth the chapter, part, or subpart to be repealed. See Appendix D. A grouping of sections under a heading (see chapter 445, HRS, for examples) may be treated as a part or subpart even though not formally designated as such.

- b. **Prefatory Language**

- (1) **Repeal of a chapter.**

SECTION . Chapter 000, Hawaii Revised Statutes, is repealed.

[No need to set out text.]

- (2) **Repeal of a part.**

SECTION . Chapter 000, part I, Hawaii Revised Statutes, is repealed.

[No need to set out text.]

- (3) **Repeal of a section.**

SECTION . Section 000-2, Hawaii Revised Statutes, is repealed.

[Set out text of entire section bracketed/stricken.]

See item c.

- (4) **Repeal of a subsection.**

SECTION . Section 000-3, Hawaii Revised Statutes, is amended to read as follows:

[Set out text of entire section. Bracket/strikethrough the repealed subsection.]

A bill to delete a subsection must set forth the section in its entirety.

Example:

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 regulation.

(b) The ~~[chairman may]~~ the chairperson, after hearing, may require the coloration of other pesticides that ~~[he]~~ the chairperson determines to be necessary to protect the health and environment.

~~[(c) The chairman may exempt the coloration requirements for certain uses that he determines not to have substantial adverse effect on the environment.] "~~

(5) 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:

or

SECTION . Section 000-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

[Set out text of section or subsection and bracket/strikethrough repealed material.]

(6) Repeal of a definition.

SECTION . Section 000-6, Hawaii Revised Statutes, is amended by repealing the definition of "agency".

[Set out text of definition bracketed/stricken.]

A bill to delete a definition in a section comprised only of definitions requires only the definition to be deleted to be set forth. However, if the deletion of the definition will require other amendments in the section, the section should be set forth in its entirety.

Examples:

SECTION . Section 235-1, Hawaii Revised Statutes, is amended by deleting the definition "trade or business".

~~["Trade or business" includes the performance of the functions of a public office."]~~

or

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.

(7) **Repeal of an Act.**

SECTION . Act 214, Session Laws of Hawaii 20 , is repealed.

[No need to set out text.]

(8) **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."]~~

- c. A bill to repeal a section must set forth the section in its entirety in brackets. Note that quotation marks are *inside* the brackets.

SECTION . Section 19-7, Hawaii Revised Statutes, is repealed.

~~["§19-7 Penalty. Any person convicted of a misdemeanor under this chapter shall be fined not more than \$500 or imprisoned not more than six months, or both."]~~

6. 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 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.

Example:

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

See Act 269, SLH 1985, §§49-55. Among other things, this Act changed the bank examiner to the commissioner of financial institutions, and transferred certain functions from the director of regulatory agencies to the commissioner.

See also Act 65, SLH 1988, §§1, 2, changing, among other things, "horizontal property regime" to "condominium property regime."

Caveat. In using this approach, each change must be capable of being made by *direct word-for-word substitution*. Amend in the usual manner, by setting out the text, for any changes that do not meet this requirement.

c. **House or Senate drafts.**

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 the contents of the Senate or House Bill or the draft or floor amendment changes. *Do not* Ramseyer previously Ramseyered material.

d. **Budget and supplemental appropriation bills.**

Senate and House Rules provide that the biennial budget bill and the supplemental appropriations bill, because of their format and predominant use of figures, need not use the Ramseyer format to amend prior acts being amended.

e. **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 user of the statute that a change has been made by the Revisor after passage of an Act. When amending statutes containing brackets, the brackets must be set out and deleted in 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 rare instances, brackets may be intended as part of the underlying language. An example of this may be found in Act 162 of the Session Laws of Hawaii 1974. In this case, the brackets are not deleted, but must remain in the statute. In such case, appropriate changes must be made to the statement of the effect of bracketing to preserve the brackets.

7. **Statement of Effect of Bracketing/Strikethrough and Underscoring**

The next to the last section of every bill using the Ramseyer format should be one of the following declaration sections, 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.

For Ramseyer language on a constitutional amendment: See section 4 in Example 2-4.

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 underscoring, the brackets, or the bracketed material except when a new section is added or an existing section is repealed. See section 23G-16.5, HRS.

Chapter 6

RECURRING DRAFTING ERRORS AND CORRECT EXAMPLES

This chapter discusses common drafting errors and how to correct them. Drafters should familiarize themselves with these common errors not only to avoid repeating them, but also to be able to identify and correct them at appropriate stages in the drafting and enactment process.

1. **Commas.** Words in series have commas before the conjunction.*

The right way:

This, that, and the other thing.

The wrong way:

This, that and the other thing.

**This does not apply to constitutional provisions.*

2. **State.** When referring to the State of Hawaii and State is used as a noun or possessive noun, it should be capitalized.

Example:

The State shall use the State's money to assist both the state and county administrations -----.

3. **How to tell if a section has a subsection.** A section has a subsection if the (a) or (1) (used particularly in Penal Code) occurs immediately after the title of the section and before any substantive language starts.

Examples of sections 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.

Or as found in the Penal Code and other uniform laws:

§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:

§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.

Or as found in the Penal Code and other uniform laws:

§708A-1 Title. This chapter shall be known and may be cited as the "Money Laundering Act".

4. Prefatory Language

- a. Prefatory language to an amendment must match the intended amendment. Failure to do so may result in an unintended repeal of material.

The right way:

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

The wrong way:

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

- b. While contiguous subsections may be set forth in the same bill section, noncontiguous subsections that are being amended must be set forth in different sections of the bill or the bill section must be structured to recognize that the sections are not contiguous.

The right way:

SECTION . Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:
" (b) Subsections (b) and (d) are noncontiguous subsections of [a] the same section."

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

"(d) Therefore each [~~subsections~~] subsection should be set forth and amended in different sections of the bill."

or

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

1. By amending subsection (b) to read:

"(b) Subsections (b) and (d) are noncontiguous subsections of [~~a~~] the same section."

2. By amending subsection (d) to read:

"(d) Therefore each [~~subsections~~] subsection should be set forth and amended in different sections of the bill."

The wrong way:

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

"(b) Subsections (b) and (d) are noncontiguous subsections of [~~a~~] the same section.

(d) Therefore each [~~subsections~~] subsection should be set forth and amended in different sections of the bill."

5. Ramseyer

- a. Always bracket out and strikethrough punctuation before inserting new material. Do not insert new material between existing language and punctuation.

The right way:

Always bracket out punctuation before inserting new material[~~7~~]; 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.

The right way:

This one, that[~~7~~] one, and the other thing.

The wrong way:

This one, that one, and the other thing.

- b. Always bracket out and strikethrough the entire word and reinsert it when changing spelling.

The right way:

Just because a word is [~~misspelled~~] misspelled or you wish to change a singular word into [a] plural [~~word~~] words is no reason to be lazy.

The wrong way:

Correct misspelled words where they occur and do not add an s to a word to make it words without setting forth the whole word in brackets as in the above example.

- c. Do not insert punctuation before brackets.

The right way:

The fact that the period at the end of language being deleted, is three pages away is no excuse for doing it the wrong way [~~, therefore, please use this example no matter where the period occurs, not the following example~~].

The wrong way:

The fact that the period at the end of language being deleted, is three pages away is no excuse for doing it the wrong way. [~~, therefore, please use the other example no matter where the period occurs, not this example.~~]

- d. When renumbering paragraphs, use the following method to avoid hanging numbers:

[~~(2)~~ ~~Bracket out and strikethrough the number with the material that is being deleted, and~~
~~(3)~~] (2) Reinsert the number when reaching the remaining material.

Do not use this method:

(2) [~~Do not leave the number hanging before deleted material, and~~
~~(3)~~] Then try and match it up with the remaining material.

- e. If a section has several subsections and only subsection (a) is being amended, set forth only the amended subsection. Doing so will save time and resources and

help prevent unintended changes to other parts of the law. Do not set forth the title to the section when only amending subsection (a).

(1) **Example:**

The right way:

"(a) When only amending subsection (a), the title and number of the section are not to be set forth."

The wrong way:

"§000-00 Title. (a) Do not set forth the title and number of a section when only amending subsection (a) of that section."

(2) **Example:**

If a section has three subsections and only one of the subsections is being amended, set forth only the subsection being amended.

The right way:

"(b) Since subsection (b) is the only subsection in section 000-00 being amended, only subsection (b) should be set forth."

The wrong way:

"§000-00 Title. (a) The drafter is only amending subsection (b) of the section.

(b) Therefore, only subsection (b) of this section should be set forth.

(c) Subsections (a) and (c), the section number, and the title should not be set forth when only amending subsection (b)."

6. Grammar. The English language should be used according to standard rules of grammar. There is a particular tendency to split auxiliary or helping verbs in bill drafting, which is incorrect.

The right way:

After a hearing, the chairperson may adopt rules.

or

The chairperson may adopt rules after a hearing.

The wrong way:

The chairperson may, after a hearing, adopt rules.

7. Units of Organization Within Sections

- a. Lower levels of organization (subsections, paragraphs, etc.) should not be designated unless there are at least two of them.

The right way:

§000-00 Title. There is no point in having a section that contains only one subsection. A section cannot be "divided" into subsections if there is only one of them; provided that if the text requires material to be excepted, it can be accomplished by using a proviso as this example does.

The wrong way:

§000-00 Title. (a) There is no point in having a section that contains only one subsection. A section cannot be "divided" into subsections if there is only one of them:

- (1) There is also no point in having only one numbered paragraph. Material that must be excepted can be set off by using a proviso as was done in the previous example.

- b. Sections and subsections should not contain repetitive sets of lower levels of organization.

The right way:

§000-00 Title. (a) Sections and subsections should not:

- (1) Contain repetitive lists of lower levels of organization;
- (2) Such as two sets of numbered paragraphs.
- (b) This problem can be prevented by placing each of the sets into separate subsections:
 - (1) Thereby removing ambiguity;
 - (2) Because all references will be to subsection (a) (1), (a) (2), (b) (1), or (b) (2).

The wrong way:

§000-00 Title. (a) Sections and subsections should not:

(1) Contain repetitive lists of lower levels of organization;

(2) Such as two sets of numbered paragraphs.

Doing this sort of thing creates problems because:

(1) References become ambiguous;

(2) No one will know which paragraph is meant when citing section 000-00(a)(1) or (2).

(b) To avoid this error, 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 the manner that avoids this problem.

c. Also do not use lower levels of organization that do not relate to the levels above.

Another wrong way:

§000-00 Title. (a) Sections and subsections should not:

(1) Contain repetitive lists of lower levels of organization;

(2) Such as a set of numbered paragraphs and a set of alphabetized paragraphs simply because there is space.

If this sentence has nothing to do with paragraphs (1) and (2):

(A) Adding lettering lists here;

(B) Is the incorrect structure.

(b) Subparagraphs (A) and (B) must relate to paragraphs (1) and (2). Do not add lower levels merely to make a section more readable.

(c) Remember that the use of subsections, paragraphs, subparagraphs, and clauses are like an outline; if there is a subsection, there should be at least one more subsection, and so forth.

Chapter 7

AMENDING SESSION LAWS

Part I. Introduction

Session laws are the laws of the State published in the exact form enacted each regular session by the Legislature. The session laws of a particular year, for example, the Session Laws of Hawaii 2011, 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, 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 the remainder of this chapter.

Part II. General Requirements

1. Ramseyer Requirement

Use the same Ramseyer rules set forth in chapter 5:

- a. The use of prefatory language to describe what is being amended;
- b. Showing deletions and additions through the use of brackets, strikethroughs, and underscoring; and
- c. The drafting conventions such as: deleting first and then adding; and not inserting new material before existing punctuation (see chapter 6 for more of these basic conventions).

2. What is the "Base" that is Being Amended?

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. The litmus paper test indicating that a session law is being amended, rather

than the Hawaii Revised Statutes, is that the prefatory language will so state. For example:

SECTION 1. Act 152, Session Laws of Hawaii 20__, is amended by amending section 1 to read as follows:

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, [2009 and shall be repealed on June 30, 2002.] 2010."

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__."

Note that the amendment 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). The Revisor of Statutes publishes session laws "as is." 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 numbers of new sections 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 repealing section 8.

~~["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 2010-2011, to carry out the purposes of this Act. The sum appropriated shall be expended by the department of taxation."]~~

Note: Do *not* amend subsequent sections to renumber them to "fill the gap."

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

Drafters may find it necessary to amend session laws that amend the Hawaii Revised Statutes. While many other scenarios are possible and, as a general rule, the Revisor will codify all additions or amendments to the Hawaii Revised Statutes enacted into law, situations arise where it is necessary to make amendments to a previously enacted act that will not take effect until some time in the future and the text of which the Revisor chose to not yet codify in the Hawaii Revised Statutes.

1. Amending Session Law to *Add* a New Section to HRS

SECTION 2. Act 219, Session Laws of Hawaii 1999, 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 under chapter 91 to implement this chapter."

Note the differing amount of quotation marks 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 HRS by Session Law Being Amended

SECTION 3. Act 320, Session Laws of Hawaii 1989, 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 HRS

SECTION 2. Act 320, Session Laws of Hawaii 1989, 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 HRS

SECTION 21. Act 121, Session Laws of Hawaii 20__, is amended by repealing section 2.

~~["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.""]~~

5. Amending Session Law to Make Additional Amendments to an HRS Section Amended by the Session Law (the amendments of which have yet to take effect)

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.

Note: If the amendments to an HRS section made by a session law have already taken effect, just amend the HRS section. There is no need to amend the session law.

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 items 3 and 5 above. Set out text of subsection as amended by the prior act, then show changes using brackets, strikethroughs, and underscoring. If the amendments to an HRS subsection made by a session law have already taken effect, just amend the HRS subsection.

7. Amending Session Law to Amend a Single Definition in a Definition Section

SECTION 4. Act 320, Session Laws of Hawaii 1989, 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."

8. **Amending Session Law (or a Section Thereof) that Has Been Amended by Multiple Prior Acts**

SECTION 1. Act 2, First Special Session Laws of Hawaii 1986, section 31, as amended by Act 300, Session Laws of Hawaii 1989, section 2, as amended by Act 62, Session Laws of Hawaii 1991, section 1, as amended by Act 238, Session Laws of Hawaii 1993, section 1, is amended 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, 1995].~~"

See note to item 3 above. Set out text of section as amended by all prior Acts, then show 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 8

APPROPRIATIONS

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: "No 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 As a rule, 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 8-1, which appropriates funds to hire a contractor to tag and monitor sharks along Oahu's leeward coast to facilitate the collection and interpretation of data about shark movements and habits of migration. Other appropriation provisions may be part of an otherwise conventional bill creating or changing substantive law. See Example 8-2, which establishes a process to determine the most appropriate means of memorializing World War II Japanese internment camp experiences in Hawaii and appropriates funds for that purpose.

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

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 judicial branch for the ensuing fiscal biennium and may submit a supplemental budget in the even-numbered years. Budgets are also prepared and adopted appropriating 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 (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 staff.

the issuance of general obligation bonds, revenue bonds, or in certain cases, special purpose revenue bonds.

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 depending upon whether it is a House or Senate document, for general, special, or revolving fund appropriations, appropriations authorizing general obligation bonds, and appropriations authorizing special purpose revenue bonds.

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);
- (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 2011-2012, 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.]

Purposes of Appropriations

An appropriation bill generally specifies the purpose of the appropriation. 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 8-1. However, where the appropriation provision is part of a larger bill and the purpose is clear, the

language concerning the purpose of an appropriation in the appropriation provision itself can be quite terse. See Section 4 of Example 8-2.

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 2011-2012 *for the purposes of this Act.* (emphasis added)

Although not generally considered necessary (particularly in a stand-alone appropriation bill), appropriation bills on occasion contain a detailed purpose section. See Example 8-2.

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 or handle the new responsibilities. Appropriations to cover the cost of goods and services are also considered operating expenses. Operating expenses or costs is broadly defined in section 37-62, Hawaii Revised Statutes (relating to the budget), 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.

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, they are usually 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 such 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 8-3.

While some individual CIP appropriations measures may be originally drafted as separate bills, most CIP appropriations will eventually be inserted into the budget. CIP appropriations can also be made to a county for expenditure by the county.

Source or Manner of Appropriation

The manner in which funds are appropriated often depends upon the purpose or the source of the appropriation.

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, Hawaii Revised Statutes, 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 called upon 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 State's fiscal year. See Example 8-1.

With respect to the fiscal period, there are several rules of which a bill drafter should be aware:

- (1) 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.

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.)

- (2) A bill should not appropriate funds in *different* fiscal bienniums which will obligate a future legislature to an act by a prior legislature.
- (3) 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 2011-2012 and the same sum or so much thereof as may be necessary for fiscal year 2012-2013 to carry out the purposes of this Act, including the hiring of necessary staff.

The sums appropriated shall be expended by the department of _____.

- (4) 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 2012-2013 to carry out the purposes of this Act, including the hiring of necessary staff.

The sum appropriated shall be expended by the department of _____.

Special and Revolving Funds

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

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, Hawaii Revised Statutes.)

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, Hawaii Revised Statutes.)

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, Hawaii Revised Statutes.)

An appropriation of money into a special or revolving fund is not a requirement for establishing the fund. In the start-up year of a fund, there may be sufficient income generated by the special or revolving fund 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 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 2010-2011 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 2010-2011 for _____.

The sum appropriated shall be expended by the _____ for the purposes of this Act.

Note: Notice that this first section does not include the sentence containing expenditure instructions, since the inclusion of such language in both sections would be superfluous.

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.

Grants and Grants-in-Aid

Pursuant to chapter 42F, Hawaii Revised Statutes, an appropriation may also be made in the form of a grant or subsidy. 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. Similarly, a subsidy is an award of state funds by the Legislature, to a specific recipient, to reduce the costs incurred by the organization or individual in providing a service available to some or all members of the public.

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 2010-2011 as a grant pursuant to chapter 42F, Hawaii Revised Statutes, to _____.

For an example of grant appropriation language, see Act 100, Session Laws of Hawaii 2006. In recent years, the House of Representatives has limited introduction of bills for grants or subsidies 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, Hawaii Revised Statutes). 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 8-5.

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 8-3.

The next section of the measure contains a lapsing provision that specifies the expenditure period of the appropriation. See Section 2 of Example 8-3. (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 State's fiscal year.

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 nine 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; and agricultural enterprises serving important agricultural lands. The specific requirements of these bonds are set forth in chapter 39A, parts II through X, Hawaii Revised Statutes.

Example 8-6 presents generic boilerplate language for special purpose revenue bonds. 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. Each SPRB project authorization must be qualified under the appropriate part [II, III, IV, V, VI, VII, VIII, IX, or X] of chapter 39A. 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 statute under which the SPRB and the refunding SPRB is to be issued. Each SPRB authorization must be issued pursuant to a single statutory reference.

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, SPRB authorization is for a period not exceeding 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, Hawaii Revised Statutes, will generally contain a section that authorizes bond pooling. See Section 4 of Example 8-7.

In addition to SPRBs, 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, Hawaii Revised Statutes); the High Technology Development Corporation (section 206M-42, Hawaii Revised Statutes); and the Department of Transportation (sections 261-52 and 266-52, Hawaii Revised Statutes). See Example 8-8.

Miscellaneous Provisions

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

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, Hawaii Revised Statutes.) Trust funds need not be appropriated for expenditure, except as provided in section 37-40, Hawaii Revised Statutes.

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, Hawaii Revised Statutes.)

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 single, stand-alone appropriation bills.

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 methods of financing (MOF):

SECTION 1. The following sums or so much thereof as may be necessary to finance the projects set forth in this Act are appropriated, or 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) other federal funds, (P) state and local fiscal assistance (federal revenue sharing) 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 8-8.

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 per cent state funds are to be appropriated against 60 per cent 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 8-9.

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. See Example 8-10.

Exceeding the General Fund Expenditure Ceiling

On occasion, if an appropriation/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. See Section 4 of Example 8-11. [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:

- (1) Sets forth the dollar amount and the percentage rate by which the ceiling will be exceeded;
- (2) States the reason for exceeding the expenditure ceiling; and
- (3) Is passed by a two-thirds majority of each house.

The following boilerplate language may be used for this purpose:

SECTION _____. In accordance with article VII, section 9, of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that 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.

Lapsing

Unless otherwise specified, all unexpended and unencumbered general obligation bond funds and general funds are automatically lapsed by law at the end of the fiscal period for which appropriated (for general fund not more than 2 years and for general obligation bonds not more than 3 years) and returned to the general fund. See article VII, section 11, of the Hawaii State Constitution; see also sections 37-41 and 40-66, Hawaii Revised Statutes. 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 prior discussion on general obligation bonds on page 7-8.) An authorization to issue bonds other than general obligation bonds should also include a lapsing provision. Pursuant to chapter 39A, Hawaii Revised Statutes, the authorization to issue special purpose revenue bonds shall not exceed five years. See Section 5 of Example 8-6 and Section 6 of Example 8-7. 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.

See also Section 2 of Example 8-4 for funds lapsing into the general 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.

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	\$
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.

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 8-1

THE SENATE
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO SHARK MONITORING.

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 \$25,000 or so much
3 thereof as may be necessary for fiscal year 2008-2009 for the
4 department of land and natural resources, in conjunction with the
5 Hawaii institute of marine biology, to hire a contractor to tag
6 and monitor sharks along the leeward coast of Oahu from Pearl
7 Harbor to Kaena Point, to facilitate collection and
8 interpretation of data about shark movements and habits of
9 migration.

10 The sum appropriated shall be expended by the department of
11 land and natural resources, in conjunction with the Hawaii
12 institute of marine biology, for the purposes of this Act.

13 SECTION 2. This Act shall take effect on July 1, 2008.

14

INTRODUCED BY: _____

Example 8-2

THE SENATE
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO HISTORICAL PRESERVATION.

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

1 SECTION 1. The legislature finds that the story of
2 Hawaii's World War II Japanese internees has remained largely
3 unknown for many years. The passage of the Civil Liberties Act
4 of 1988, and the subsequent search for former internees has led
5 to an increased awareness of how Hawaii's internees fared, and
6 the knowledge that many of the former internment camps have
7 disappeared or will in the near future.

8 The legislature further finds that in January 2007,
9 President Bush signed into law a bill that creates a \$38,000,000
10 grant program to help communities preserve the sites where
11 Japanese Americans and Japanese nationals were incarcerated.
12 Development of memorials will be eligible for fifty per cent
13 federal matching funds administered by the National Park Service.

14 The purpose of this Act is to establish a process to
15 determine the most appropriate means of memorializing the World
16 War II Japanese internment camp experience in Hawaii.

17 SECTION 2. The department of land and natural resources,
18 with the assistance of the Japanese Cultural Center of Hawaii,
19 the Japanese American National Heritage Coalition, Historic

1 Hawaii Foundation, and other organizations as may be appropriate,
2 shall establish a process to determine the most appropriate means
3 of memorializing the World War II Japanese internment camp
4 experience in Hawaii.

5 In doing so, the department shall consider fully:

- 6 (1) Any research, collections, and other information
7 compiled by cultural and historical organizations or
8 individuals;
- 9 (2) Information on the size and current condition of the
10 five known internment camps: Honouliuli Internment
11 Camp and Sand Island on Oahu, Kilauea Military Camp on
12 the Big Island, Haiku Internment Camp on Maui, and the
13 Kalaheo Stockade on Kauai, and recommendations for
14 preserving the camps, if feasible to do so;
- 15 (3) Cost estimates for the establishment and ongoing
16 operations of any World War II Japanese internment
17 camp memorial projects and funding sources, including
18 potential federal funds; and
- 19 (4) Recommendations for long-term organizational
20 management of any World War II Japanese internment
21 camp memorial.

22 SECTION 3. The department of land and natural resources
23 shall report its findings and recommendations no later than
24 twenty days prior to the convening of the 2008 regular session.

S.B. NO.

1 SECTION 4. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$50,000 or so much
3 thereof as may be necessary for fiscal year 2007-2008 for the
4 purposes of this Act.

5 The sum appropriated shall be expended by the department of
6 land and natural resources for the purposes of this Act.

7 SECTION 5. This Act shall take effect on July 1, 2007.

8

INTRODUCED BY: _____

Example 8-3

THE SENATE
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO TEMPORARY FACILITIES FOR THE UNIVERSITY OF HAWAII-
WEST OAHU.

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 \$1,129,200 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 2007-2008 for
5 the purpose of designing and constructing temporary facilities
6 for the University of Hawaii-West Oahu, as follows:

7 University of Hawaii-West Oahu, temporary facilities, Oahu
8 Design, construction, and equipment for
9 temporary facilities for the University of
10 Hawaii-West Oahu. Project to include
11 ground and site improvements, equipment and
12 appurtenances, and all project costs.

13 Design	\$ 54,000
14 Construction	1,074,000
15 Equipment	<u>1,200</u>
16 Total funding	\$1,129,200

17 SECTION 2. The appropriation made for the capital
18 improvement project authorized by this Act shall not lapse at the
19 end of the fiscal biennium for which the appropriation is made;

1 provided that all moneys from the appropriation unencumbered as
2 of June 30, 2010, shall lapse as of that date.

3 SECTION 3. This Act shall take effect on July 1, 2007.

4

INTRODUCED BY: _____

Example 8-4

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

H.B. NO.

A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. The legislature finds that the closure of Del
2 Monte Fresh Produce will have a significant adverse effect on
3 pineapple workers. Housing ranks among their primary concerns.
4 Currently, many employees, retirees, and their families live in
5 plantation homes owned by the company at the Kunia camp and by
6 Hawaiian Island Homes at the Poamoho camp. With the closure of
7 Del Monte Fresh Produce, many of these families face the
8 possibility of losing their homes. Housing is a fundamental
9 need, to which every person should have access.

10 With the loss of their jobs, many pineapple workers and
11 retirees will undergo a transition period as they seek new
12 employment, participate in job training programs, or seek other
13 opportunities. While employee incomes may be greatly diminished,
14 workers and retirees must continue to make their housing payments
15 and meet other living expenses. Many former employees and
16 retirees in transition may find it difficult to retain their
17 homes.

H.B. NO.

1 The legislature finds that providing assistance to these
2 workers, retirees, and their families is for the benefit of the
3 public health, safety, and welfare of the State.

4 The purpose of this Act is to assist former Del Monte Fresh
5 Produce pineapple workers and retirees in danger of losing their
6 homes by establishing a pineapple workers and retirees housing
7 assistance fund to help eligible homeowners keep up with their
8 mortgage payments and provide rental subsidies.

9 SECTION 2. Chapter 201H, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§201H- Pineapple workers and retirees housing
13 assistance fund; established. (a) There is established in the
14 state treasury the pineapple workers and retirees housing
15 assistance fund to provide mortgage payments or rent subsidies
16 for eligible Del Monte Fresh Produce pineapple workers and
17 retirees and their families who are displaced or affected by the
18 closure of Del Monte Fresh Produce. The pineapple workers and
19 retirees housing assistance fund shall be administered by the
20 corporation.

21 (b) Moneys appropriated for the purposes of this section
22 shall be deposited into the pineapple workers and retirees
23 housing assistance fund; provided that, upon fulfillment of the
24 purposes of this section, all unencumbered moneys shall lapse

H.B. NO.

1 into the general fund. The corporation shall establish
2 guidelines with respect to eligible Del Monte Fresh Produce
3 pineapple workers and retirees and mortgage payments or rental
4 assistance payments under this section.

5 (c) The corporation shall adopt rules in accordance with
6 chapter 91 to effectuate the purposes of this section."

7 SECTION 3. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$600,000 for fiscal
9 year 2007-2008 and the same sum for fiscal year 2008-2009 for
10 deposit into the pineapple workers and retirees housing
11 assistance fund established under section 201H- , Hawaii Revised
12 Statutes.

13 SECTION 4. There is appropriated out of the pineapple
14 workers and retirees housing assistance fund the sum of
15 \$600,000 or so much thereof as may be necessary for fiscal year
16 2007-2008 and the same sum or so much thereof as may be necessary
17 for fiscal year 2008-2009 to provide mortgage payments or rent
18 subsidies for eligible Del Monte Fresh Produce pineapple workers
19 and retirees and their families who are displaced or affected by
20 the closure of Del Monte Fresh Produce and to fund related
21 administrative activities.

22 The sums appropriated shall be expended by the Hawaii
23 housing finance and development corporation for the purposes of
24 this Act.

H.B. NO.

1 SECTION 5. New statutory material is underscored.

2 SECTION 6. This Act shall take effect on July 1, 2007.

3

INTRODUCED BY: _____

Example 8-5

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO WASTEWATER MANAGEMENT.

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

- 1 SECTION 1. The county of Hawaii's department of
2 environmental management's wastewater division shall conduct a
3 study on the feasibility of constructing a wastewater treatment
4 facility for the Kapoho Vacationland Estates and Farmlots and
5 public restrooms at the Wai O Pae marine life conservation
6 district within the Kapoho Vacationland Estates. The study
7 shall:
- 8 (1) Evaluate various wastewater treatment techniques used
9 in coastal communities;
- 10 (2) Perform a cost-benefit analysis of the different
11 wastewater treatment technologies;
- 12 (3) Determine which wastewater treatment technology is
13 best suited for the Kapoho Vacationland Estates and
14 Farmlots area;
- 15 (4) Examine different financing methods for the wastewater
16 treatment facility;
- 17 (5) Determine whether shoreline certifications are
18 required for constructing the restrooms at Wai O Pae
19 marine life conservation district; and

1 (6) Evaluate the proper design and construction for the
2 restroom facilities at the Wai O Pae marine life
3 conservation district.

4 The department shall establish a community-outreach
5 process, which shall include informational meetings for the
6 Kapoho community regarding the study.

7 The department shall prepare a report that includes the
8 feasibility study's findings and recommendations and shall submit
9 the report to the legislature no later than twenty days before
10 the convening of the regular session of 2007.

11 SECTION 2. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$150,000 or so much
13 thereof as may be necessary for fiscal year 2006-2007 for a
14 grant-in-aid to the county of Hawaii's department of
15 environmental management's wastewater division to conduct a study
16 on the feasibility of constructing a wastewater treatment
17 facility for the Kapoho Vacationland Estates and Farmlots and
18 public restrooms at the Wai O Pae marine life conservation
19 district located within the Kapoho Vacationland Estates.

20 The sum appropriated shall be expended by the county of
21 Hawaii for the purposes of this Act.

22 SECTION 3. This Act shall take effect on July 1, 2006.

23

INTRODUCED BY: _____

Example 8-6

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2007
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, or IX]* of chapter 39A, the department of budget and
7 finance, with the approval of the governor, is authorized to
8 issue special purpose revenue bonds in a total amount not to
9 exceed \$*[]*, in one or more series, for the purpose of
10 assisting *[name of special purpose entity]*, a *[name of state]*
11 corporation, for *[use to which proceeds will be applied, e.g.,*
12 *planning, design, and construction of the special purpose*
13 *facility]*. The legislature hereby finds and determines that
14 *[description of project]* constitutes a "project" as defined in
15 part *[II, III, IV, V, VI, VII, VIII, IX, or X]* chapter 39A,
16 Hawaii Revised Statutes, relating to the power to issue special
17 purpose revenue bonds to assist *[type of]* enterprise.

18 SECTION 3. The special purpose revenue bonds and the
19 refunding special purpose revenue bonds issued under this Act

H.B. NO.

1 shall be issued pursuant to part *[II, III, IV, V, VI, VII, VIII,*
2 *IX, or X]*, chapter 39A, Hawaii Revised Statutes, relating to the
3 power to issue special purpose revenue bonds to assist *[type of]*
4 enterprise.

5 SECTION 4. The department of budget and finance is
6 authorized, from time to time, including times subsequent to *[the*
7 *lapsing date]*, to issue special purpose revenue bonds in whatever
8 principal amounts the department shall determine to be necessary
9 to refund the special purpose revenue bonds authorized in section
10 2 and to refund special purpose revenue bonds authorized in this
11 section, regardless of whether the outstanding special purpose
12 revenue bonds or refunding special purpose revenue bonds have
13 matured or are the subject of redemption or whether the refunding
14 special purpose revenue bonds shall be bonds for the multi-
15 project programs described in section 2. In making this
16 determination, the department shall comply with federal law
17 relating to the exemption from federal income taxation of the
18 interest on bonds of the nature authorized by this section.

19 SECTION 5. The authorization to issue special purpose
20 revenue bonds under this Act shall lapse on *[June 30, not later*
21 *than end of the fifth year following enactment]*.

22 SECTION 6. This Act shall take effect upon its approval.

23

INTRODUCED BY: _____

Example 8-7

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

H.B. NO.

A BILL FOR AN ACT

RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR
HANALANI SCHOOLS.

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 \$10,000,000, in one
9 or more series, for the purpose of assisting Hanalani Schools,
10 for the purpose of financing and refinancing the planning,
11 acquisition, construction, and improvement of its facilities.
12 The legislature hereby finds and determines that the activities
13 and facilities of Hanalani Schools constitute a project as
14 defined in part VIII, chapter 39A, Hawaii Revised Statutes, and
15 the financing thereof is assistance to a not-for-profit private
16 nonsectarian and sectarian elementary school, secondary school,
17 college, or university serving the general public.

18 SECTION 3. The special purpose revenue bonds and the
19 refunding special purpose revenue bonds issued under this Act

H.B. NO.

1 shall be issued pursuant to part VIII, chapter 39A, Hawaii
2 Revised Statutes, relating to the power to issue special purpose
3 revenue bonds to assist not-for-profit private nonsectarian and
4 sectarian elementary schools, secondary schools, colleges, or
5 universities serving the general public.

6 SECTION 4. The special purpose revenue bonds issued under
7 this Act may be issued in one or more series for a single
8 project, multiple projects, a single-project party, or multiple-
9 project parties pursuant to the authority of this Act or the
10 combined authority of this Act and any one or more other separate
11 Acts of the legislature pursuant to part VIII, chapter 39A,
12 Hawaii Revised Statutes, and the department of budget and finance
13 may combine into a single issue of special purpose revenue bonds,
14 in one or more series, two or more proposed issues of special
15 purpose revenue bonds to be issued pursuant to part VIII, chapter
16 39A, Hawaii Revised Statutes, separately authorized, in the total
17 amount not to exceed the aggregate of the proposed separate
18 issues of special purpose revenue bonds.

19 SECTION 5. The department of budget and finance is
20 authorized, from time to time, including times subsequent to June
21 30, 2012, to issue special purpose revenue bonds in whatever
22 principal amounts the department shall determine to be necessary
23 to refund the special purpose revenue bonds authorized in section
24 2 and to refund special purpose revenue bonds authorized in this

H.B. NO.

1 section, regardless of whether the outstanding special purpose
2 revenue bonds or refunding special purpose revenue bonds have
3 matured or are the subject of redemption or whether the refunding
4 special purpose revenue bonds shall be bonds for the multi-
5 project programs described in section 2. In making this
6 determination, the department shall comply with federal law
7 relating to the exemption from federal income taxation of the
8 interest on bonds of the nature authorized by this section.

9 SECTION 6. The authorization to issue special purpose
10 revenue bonds under this Act shall lapse on June 30, 2012.

11 SECTION 7. This Act shall take effect on July 1, 2007.

12

INTRODUCED BY: _____

Example 8-8

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO HIGHWAY IMPROVEMENTS AND PLANS RELATED THERETO.

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

1 SECTION 1. The following sums, or so much thereof as may
2 be necessary for fiscal year 2010-2011, are appropriated or
3 authorized, as the case may be, from moneys in the treasury
4 received from special funds and federal grants to finance the
5 following projects on Oahu. The letter symbols used after the
6 specific project appropriations indicate the source of financing
7 and have the following meaning: (B) special funds, (J) federal
8 aid interstate highway funds, (K) federal aid primary highway
9 funds.

10	(1)	Interstate route H-3 - Junction at H-1	
11		to Kaneohe marine corps air station	
12			
13		Plans for construction of	
14		approximately 14.5 miles	
15		of four-lane divided highway from	
16		junction at H-1 to Kaneohe Marine	
17		Corps Air Station.	\$ 310,000 (B)
18			1,748,000 (J)
19			
20	(2)	Moanalua road improvement - Aiea to	
21		Puuloa road	
22			
23		Improvement of existing four-lane	
24		divided highway from Aiea to Puuloa	
25		road, including Puuloa road.	1,364,000 (B)
26			1,115,000 (J)
27			
28	(3)	Installation of median guardrails on	
29		Kamehameha highway	

H.B. NO.

1		
2	Installation of median guardrails on	
3	Kamehameha highway from Plantation	
4	drive to Aiea stream bridge.	63,000 (K)

6 SECTION 2. The sums appropriated shall be expended, and
7 the bonds authorized shall be issued, by the department of
8 transportation for the purposes of this Act. Any unexpended or
9 unencumbered balance of any appropriation made by this Act as of
10 the close of business on June 30, 2011, shall lapse into the fund
11 from which appropriated. Any unissued balance of any
12 authorization made by this Act as of the close of business on
13 June 30, 20 , shall lapse.

14 SECTION 3. This Act shall take effect on July 1, 2010.

INTRODUCED BY:

Example 8-9

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2010
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 2010-2011, 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, 2010.

11

INTRODUCED BY: _____

Example 8-10

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR
PANDEMIC INFLUENZA PREPAREDNESS.

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 control of infectious diseases for the
6 fiscal period beginning July 1, 2005, and ending June 30, 2006, a
7 critical funding emergency now exists.

8 Highly pathogenic avian influenza has spread across Asia
9 and has been detected in Eastern Europe. While primarily
10 affecting birds at the present time, at least one hundred forty-
11 four human cases have been reported in China, Vietnam, Thailand,
12 Indonesia, Cambodia, and Turkey, with a mortality rate of
13 approximately fifty per cent. Scientists are particularly
14 concerned about the highly pathogenic avian influenza (H5N1)
15 currently circulating in Asia and parts of Europe and agree that
16 another influenza pandemic is inevitable and possibly imminent.

17 Based on historical patterns, influenza pandemics can be
18 expected to occur, on average, three to four times each century
19 when new virus subtypes emerge and are readily transmitted from

S.B. NO.

1 person to person. However, the occurrence of influenza pandemics
2 is unpredictable. In the twentieth century, the great influenza
3 pandemic of 1918-1919 that caused an estimated forty to fifty
4 million deaths worldwide was followed by pandemics in 1957-1958
5 and 1968-1969.

6 An influenza pandemic has the potential to cause more death
7 and illness than any other public health threat. If a pandemic
8 influenza virus with similar virulence to the 1918 strain emerged
9 today, in the absence of intervention, it is estimated that
10 1,900,000 Americans could die and almost ten million could be
11 hospitalized over the course of the pandemic that may evolve over
12 a year or more. Preparedness to lessen the impact of a pandemic
13 is imperative.

14 The purpose of this Act is to appropriate funds for fiscal
15 year 2005-2006 to prepare for a novel strain of influenza by
16 acquiring medications, mass clinic supplies, laboratory supplies
17 and equipment, personal protective equipment, and a data
18 management system for tracking cases and contacts.

19 SECTION 3. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$6,318,618 or so much
21 thereof as may be necessary for fiscal year 2005-2006 to prepare
22 for a pandemic of a novel strain of influenza.

23 There is appropriated out of the emergency and budget
24 reserve fund of the State of Hawaii the sum of \$5,000,000 or so

S.B. NO.

1 much thereof as may be necessary for fiscal year 2005-2006 to
2 prepare for a pandemic of a novel strain of influenza by
3 acquiring additional:

4 (1) Medication;

5 (2) Laboratory equipment;

6 (3) Supplies;

7 (4) Necessary personnel as determined by the director of
8 health; or

9 (5) Public education programs;

10 provided that moneys under this section shall not be expended
11 unless a declaration or determination is made pursuant to section
12 328L-3(d) (4), Hawaii Revised Statutes.

13 The sums appropriated shall be expended by the department
14 of health for the purposes of the Act.

15 SECTION 4. Any provision of this Act to the contrary
16 notwithstanding, the appropriations authorized under this Act
17 shall not lapse at the end of the fiscal year for which the
18 appropriation is made. Any unexpended and unencumbered balance
19 of the appropriation made in this Act as of the close of business
20 on June 30, 2007, shall lapse.

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

22

INTRODUCED BY: _____

Example 8-11

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.

16 SECTION 3. There is appropriated out of the general revenues
17 of the State of Hawaii the sum of \$1,444,828 or so much thereof as
18 may be necessary for fiscal year 2006-2007, to reimburse costs

H.B. NO.

1 associated with the delivery of service by the Hawaii Army
2 National Guard or other provider.

3 The sum appropriated shall be expended by the department of
4 health for the purposes of this Act.

5 SECTION 4. In accordance with section 9 of Article VII of
6 the Constitution of the State of Hawaii and sections 37-91 and 37-
7 93, Hawaii Revised Statutes, the legislature has determined that
8 the general fund expenditure ceiling for fiscal year 2006-2007
9 (established at \$5,357,987,705 on November 8, 2006) has already
10 been exceeded by \$90,137,694 or 1.68 per cent. The appropriations
11 contained in this Act will cause the state general fund
12 expenditure ceiling for fiscal year 2006-2007 to be exceeded by an
13 additional \$1,444,828 or an additional 0.027 per cent. The
14 calculation contained in the foregoing sentence relates only to
15 the amount of general funds appropriated in this Act for fiscal
16 year 2006-2007. The reasons for exceeding the general fund
17 expenditure ceiling are that the appropriations made in this Act
18 are necessary to serve the public interest and to meet the needs
19 provided for by this Act.

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

21

INTRODUCED BY: _____

Chapter 9

RESOLUTIONS AND CERTIFICATES

There are two types of resolutions used by the Hawaii Legislature--concurrent resolutions and single house resolutions. Concurrent resolutions express the sentiment of the Legislature as a whole, while single house resolutions express the sentiment of the adopting house. These resolutions do *not* have the force and effect of law. Therefore, there is not much point in trying to *require* someone to do something through a resolution (*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.

Concurrent Resolutions

A concurrent resolution is adopted after passage at a single reading in each house. Once adopted by both, it is an official statement of both houses of the Legislature.

The distinctive clause in a concurrent resolution reads:

BE IT RESOLVED by the Senate (or House of Representatives,
depending upon the house in which it 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.

Single House Resolutions

Single house resolutions are the simplest of resolutions and require only one reading in the house of introduction for adoption.

See Example 9-2.

Resolutions as Part of the Lawmaking Process

Despite the fact that resolutions do not have the force and effect of law, they occasionally play an important role in the lawmaking process.

See Example 9-3, which is a copy of Senate Concurrent Resolution 309, adopted during the 1995 regular session, requesting the Governor to return a bill to the Legislature for reconsideration after it had passed three readings in each house. 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.

See Example 9-4, which is a sample of a resolution that can be used by one house of the Legislature to recall a bill from the other house.

In some instances, the Legislature is required by law to use resolutions to disapprove or approve certain executive agency actions. For example, see section 171-50 (disapproval of land exchanges), section 171-53 (approval to lease submerged lands), and section 261-7 (disapproval of certain airport fees), Hawaii Revised Statutes.

Example 9-5 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.

Drafting

Resolutions can be divided into two basic parts: 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.

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. 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. Also, the last paragraph traditionally requests the clerk to transmit copies of the resolution to involved agencies or organizations. In particular, it should also be kept in mind that an agency requested to perform an act or conduct a study 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 house (*i.e.*, either the president of the senate or the speaker of the house), in addition to the chairperson of the committee asked to perform an act, should be sent a copy of the resolution.

Distinctions from Bill Drafting

Unlike bills, resolution titles may be amended.

Unlike statutory drafting, state and county agencies and officials should be capitalized in resolutions.

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 statements and one Be It Resolved statement (see Example 9-6), or they may be in simple paragraph format (see Example 9-7). 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. The amount of space into which these statements may be placed varies between the Senate and the House of Representatives. The clerks of the respective houses 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 restrictions on the use of congratulatory resolutions.

Example 9-1

SENATE CONCURRENT RESOLUTION

THE SENATE
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

S.C.R. NO.

SENATE CONCURRENT RESOLUTION

URGING A CONCERTED NATIONAL EFFORT TO REPLACE THE CATALYTIC
CONVERTERS ON AUTOMOBILES WITH ALTERNATIVE DEVICES.

1 WHEREAS, the federal Clean Air Act of 1970 established
2 mandatory automobile emission standards and time schedules for
3 their implementation by automobile manufacturers; and
4

5 WHEREAS, to meet the requirements of the Clean Air Act,
6 automobile manufacturers have installed catalytic converters,
7 muffler-type devices which chemically alter harmful automobile
8 exhausts into harmless emission, on most cars built after 1974;
9 and
10

11 WHEREAS, while catalytic converters enable automobile
12 manufacturers to comply with the Clean Air Act, there is a
13 question as to whether these devices are in the best interests
14 of the general public; and
15

16 WHEREAS, for example, catalytic converters reportedly
17 increase the price of new vehicles by an average cost of \$250;
18 and
19

20 WHEREAS, because minimal amounts of lead, a common
21 ingredient in conventional gasolines, seriously impairs the
22 intended cleansing function of the catalytic converter, vehicles
23 fitted with these devices must use only unleaded gasoline, which
24 is more expensive than conventional gasolines; and
25

26 WHEREAS, the cost of replacing a defective catalytic
27 converter with a new one is upwards of \$300 an installation; and
28

29 WHEREAS, in view of the high cost factors and other
30 problems associated with the catalytic converter, the

S.C.R. NO.

1 replacement of these devices with alternate technologies which
2 may better serve the intended purposes of the catalytic
3 converter is a matter of compelling national interest; now,
4 therefore,
5

6 BE IT RESOLVED by the Senate of the Twenty-fourth
7 Legislature of the State of Hawaii, Regular Session of 2008, the
8 House of Representatives concurring, that the President of the
9 United States, the United States Congress, and all the State
10 Legislatures are respectfully urged to join in a concerted
11 national effort to do away with the use of catalytic converters
12 in view of the concerns expressed in this Concurrent Resolution;
13 and
14

15 BE IT FURTHER RESOLVED that certified copies of this
16 Concurrent Resolution be transmitted to the Majority Leader of
17 the United States Senate, the Speaker of the United States House
18 of Representatives, Hawaii's congressional delegation, and to
19 each of the presiding officers of the legislative bodies of each
20 state of the United States of America.
21
22
23

OFFERED BY: _____

Example 9-2

HOUSE RESOLUTION

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

H.R. NO.

HOUSE RESOLUTION

CONCERNING THE POSTING OF PERFORMANCE BONDS BY ESCROW
DEPOSITORIES.

1 WHEREAS, chapter 449, Hawaii Revised Statutes, enacted in
2 1967, regulates escrow depositories requiring among other things
3 the posting of a bond of \$100,000 guaranteeing performance; and
4

5 WHEREAS, chapter 449, Hawaii Revised Statutes, also
6 requires the posting of fidelity bonds and the maintenance of
7 errors and omissions insurance; and
8

9 WHEREAS, it would seem that parties to escrows are
10 protected by fidelity bonds and errors and omissions insurance;
11 and
12

13 WHEREAS, it has become obvious that obtaining a performance
14 bond of \$100,000 requires, in effect, the capital of \$100,000
15 and that this has resulted in putting several escrow companies
16 out of business; now, therefore,
17

18 BE IT RESOLVED by the House of Representatives of the
19 Twenty-fourth Legislature of the State of Hawaii, Regular
20 Session of 2008, that the Director of Commerce and Consumer
21 Affairs is requested to examine the necessity for the
22 performance bond required by section 449-9, Hawaii Revised
23 Statutes; and
24

25 BE IT FURTHER RESOLVED that the Director of Commerce and
26 Consumer Affairs, after consultation with the Attorney General
27 and the Director of the Office of Consumer Protection, is
28 requested to report findings and recommendations to the

1 Legislature twenty days before the convening of the Regular
2 Session of 2009; and
3

4 BE IT FURTHER RESOLVED that certified copies of this
5 Resolution be transmitted to the Director of Commerce and
6 Consumer Affairs, the Attorney General, and the Director of the
7 Office of Consumer Protection.
8
9
10

OFFERED BY: _____

Example 9-3

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
2 AN ACT RELATING TO HOUSING LOAN AND MORTGAGE PROGRAM, was
3 enrolled by the 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
7 prior to its having received the approval of the Governor, the
8 bill may be returned by Concurrent Resolution to the house last
9 considering the bill for proper correction; now, therefore,
10

11 BE IT RESOLVED by the Senate of the Eighteenth Legislature
12 of the State of Hawaii, Regular Session of 1995, the House of
13 Representatives concurring, that the Governor of the State of
14 Hawaii is requested to return Senate Bill No. 1699, Senate Draft
15 2, to the Senate for proper correction; and
16

17 BE IT FURTHER RESOLVED that a certified copy of this
18 Concurrent Resolution be transmitted to the Governor of the
19 State of Hawaii.
20
21
22

OFFERED BY: _____

Example 9-4

RECALL OF BILL BY ONE HOUSE FROM ANOTHER

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2008
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
2 Twenty-fourth Legislature of the State of Hawaii, Regular
3 Session of 2008, that the Senate is requested to return to the
4 House of Representatives H.B. No. _____ for reconsideration; and
5

6 BE IT FURTHER RESOLVED that a certified copy of this
7 Resolution be transmitted to the President of the Senate.
8
9
10

OFFERED BY: _____

Example 9-5

RATIFICATION OF AMENDMENT TO UNITED STATES CONSTITUTION

THE SENATE
SIXTH LEGISLATURE, 1972
STATE OF HAWAII

S.C.R. NO. ³⁹

SENATE CONCURRENT RESOLUTION

RATIFYING A PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED
STATES PROVIDING FOR EQUAL RIGHTS UNDER THE LAW WITHOUT
DISCRIMINATION ON ACCOUNT OF SEX.

1 WHEREAS, the Congress of the United States has proposed an
2 amendment to the Constitution of the United States to prohibit the
3 denial or abridgment of equal rights under the law on account of sex;
4 and
5

6 WHEREAS, the transformation of our legal system to one which
7 establishes equal rights for men and women under the law is long
8 overdue; and
9

10 WHEREAS, what was begun in the Nineteenth Amendment to the United
11 States Constitution, extending to women the right of franchise, should
12 now be completed by guaranteeing equal treatment to women in all areas
13 of legal rights and responsibilities; and
14

15 WHEREAS, the proposed Equal Rights Amendment provides for the
16 establishment of complete legal equality so that before the law women
17 and men will be treated without discrimination and individuals will be
18 accorded the dignity and respect to which they are entitled
19 politically and morally; and
20

21 WHEREAS, House Joint Resolution 208, approved by the Ninety-
22 Second Congress, Second Session, reads as follows:
23

24 HOUSE JOINT RESOLUTION 208

25
26 JOINT RESOLUTION
27

28 Proposing an amendment to the Constitution of the United States
29 relative to equal rights for men and women.
30

S.C.R. NO.

1 Resolved by the Senate and House of Representatives of the United
2 States of America in Congress assembled (two-thirds of each House
3 concurring therein), that the following article is proposed as an
4 amendment to the Constitution of the United States, which shall be
5 valid to all intents and purposes as part of the Constitution when
6 ratified by the legislatures of three-fourths of the several states
7 within seven years from the date of its submission by the Congress;

8
9 "ARTICLE

10
11 Section 1. Equality of rights under the law shall not be
12 denied or abridged by the United States or by any State on
13 account of sex.

14
15 Section 2. The Congress shall have the power to enforce,
16 by appropriate legislation, the provisions of this article.

17
18 Section 3. This amendment shall take effect two years
19 after the date of ratification.";

20
21 now, therefore,

22
23 BE IT RESOLVED by the Senate of the Sixth Legislature of the
24 State of Hawaii, Regular Session of 1972, the House of Representatives
25 concurring, that the Article proposed as an amendment to the
26 Constitution of the United States as set forth in United States House
27 Joint Resolution 208, dated March 22, 1972, be hereby ratified by the
28 Legislature of the State of Hawaii; and

29
30 BE IT FURTHER RESOLVED that a certified copy of this Concurrent
31 Resolution be transmitted to the Administrator, United States General
32 Services Administration, and that certified copies of this Concurrent
33 Resolution also be transmitted to the President of the United States
34 Senate and to the Speaker of the United States House of
35 Representatives and to the members of Hawaii's delegation to the
36 Congress of the United States.

37
38
39 OFFERED BY: _____

Example 9-6

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.

*Include bracketed material if certificate is awarded during the legislative session. Do not include if awarded during the interim.

Example 9-7

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 9-8

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

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.) 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 investigative committees and, therefore, committee reports for other purposes, as noted later in 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 substantive 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 2011-2012 Rules of the House of Representatives (House Rule) Rule 11.7(2) and 2009-2010 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."

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 and 10-3 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. See Examples 10-4 and 10-5.

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 meet the objections of the Governor. In that case, the language in the title paragraph will be slightly different. See Example 10-6.

3. Advise 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, 10-8, and 10-10.

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.

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.

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 and 10-13.

6. Special, Interim, and Investigative 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 investigative 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. 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).

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, investigative, 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(s).

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.

Example 10-1 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.

3. Purpose paragraph

This paragraph or paragraphs should set forth the purpose of the measure *as received by the committee*, even though the committee may subsequently change 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.

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. (See Example 10-16 for a purpose paragraph that may be viewed as too long.) 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.

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. In the alternative, 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 in the next paragraph. See Example 10-15. However, the danger with this latter approach is that, if the purpose statement is too general, it may do little more than duplicate the title (*e.g.*, The purpose of this bill is to amend the provisions of the penal code.).

4. Testimony paragraph

Each chamber maintains its own policies and procedures regarding the inclusion of testifier lists in committee reports. The drafter should consult the respective chamber's policies and procedures for more information on this subject.

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 as to 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.

6. Amendment paragraph

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""). A discussion of the amendments made often lends itself to an enumeration. See Example 10-16. Also, if the purpose of the measure has been altered substantially by the proposed amendments, the amended purpose should be set forth in this paragraph.

Technical nonsubstantive amendments are also acknowledged in a committee report, but are generally not specifically described. See Example 10-3.

Although by no means exhaustive, suggested language for commonly occurring types of amendments may be found in Example 10-18.

7. Recommendation paragraph

This paragraph clearly states the committee's recommendations as to 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 and/or recommended to pass second or third reading. The Hawaii State Constitution mandates that a bill pass three readings in each chamber on separate days before it may become law. Resolutions

do not go through readings; they are either referred to another committee or recommended for adoption. 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 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 recommitting 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 and 10-20. 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.

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 checked after it is inserted into the report to ensure it is consistent with the measure's referral and the recommendation of the committee. Example 10-21 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 concurrent resolution is
to _____
_____.
- F. Testimony paragraph** Testimony in support of this measure was
submitted by _____
_____.
- 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
- L. Naming convention** HSCR ### HCR### HD#

Example 10-2

SENATE STANDING COMMITTEE REPORT

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: S.B. No. 1260
S.D. 2

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. 1260, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO A GRANT TO KAHUKU
HOSPITAL,"

begs leave to report as follows:

The purpose of this measure is to make an emergency
appropriation to enable Kahuku Hospital to continue
operating on the north shore of Oahu.

Specifically, this measure appropriates \$950,000 as
a grant, pursuant to chapter 42F, Hawaii Revised
Statutes, to Kahuku Hospital to enable it to continue
operations; preserve its hospital license; retain its
certificate of need and critical access hospital
designation; reorganize; and settle its debts to allow
Kahuku Hospital to be acquired by the Hawaii health
systems corporation or become affiliated with the Hawaii
health systems corporation.

Your Committee received comments in support of this
measure from Kahuku Hospital, Hawaii Reserves, Inc.,
Brigham Young University at Hawaii, Polynesian Cultural
Center, American Council of Life Insurers, Koolau Loa
Neighborhood Board, and thirty-seven individuals.

Your Committee has amended this bill to comply with
the requirements of section 9 of article VII of the
Constitution of the State of Hawaii, by inserting a new

Title

Purpose

Discussion

Testimony

Amendment

section 4 which states that the appropriation in this bill will cause the general fund expenditure ceiling to be exceeded by \$950,000, or an additional 0.018 per cent. As required by section 37-93, Hawaii Revised Statutes, the new section of this Act also sets forth the reasons for exceeding the general fund expenditure ceiling for fiscal year 20__-20__.

Amendment

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. 1260, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1260, S.D. 2.

Recommendation

Respectfully submitted on behalf
of the members of the Committee
on Ways and Means,

NAME, Chair

Example 10-3

HOUSE STANDING COMMITTEE REPORT

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: H.B. No. 1750
H.D. 1

Honorable (Name)
Speaker, House of Representatives

State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to
which was referred H.B. No. 1750 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT,"

begs leave to report as follows:

The purpose of this bill is to increase the number of
individuals eligible for state and county employment by:

- (1) Removing the requirement that applicants for
state and county positions reside in the State
at the time of their application for the
position; and
- (2) Authorizing all personnel department heads to
waive the residency requirement for essential
positions.

The Department of Education, Department of Human
Resources of the City and County of Honolulu, and the
American Civil Liberties Union testified in support of
this bill. The Department of the Attorney General
offered comments, opposing the measure in part.

Your Committee finds that the current law, which
requires applicants to reside in the State at the time
they apply for government positions, limits the number of
potentially qualified applicants, especially as many
baby-boomer employees anticipate retiring within the next

Title

Purpose

Testimony

Discussion

five years. To offset the potential loss of qualified employees, legislation that expands the pool of future government employees is critical.

Discussion

However, your Committee understands the concerns raised by the Attorney General that the appointing authority rather than a respective jurisdiction's head of personnel should determine when the residency requirement should be waived. Accordingly, your Committee has amended this measure by:

- (1) Deleting the provision that allows the director of personnel of a jurisdiction to waive the "residency during employment" requirements for positions within that jurisdiction; and
- (2) Making technical nonsubstantive amendments for clarity, consistency, and style.

Amendment

As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1750, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1750, H.D. 1, and be referred to the Committee on Judiciary.

Recommendation

Respectfully submitted on behalf
of the members of the Committee
on Labor & Public Employment,

NAME, Chair

Example 10-4

CONFERENCE COMMITTEE REPORT Prepared by the Senate

CONFERENCE COMMITTEE REP. NO.

Honolulu, Hawaii

_____, 20__

RE: S.B. No. 1182
S.D. 2
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. 1182, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO NEEDS ALLOWANCE,"

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 provide financial relief for residents of certain residential care homes by increasing the monthly needs allowance of care home residents.

Your Committee on Conference finds that the monthly needs allowance for residents of long-term care and community care home facilities in Hawaii has not been raised since 1988, when it was set at \$30. Your Committee on Conference further finds that the amount is far too low for these residents to procure the daily necessities essential

Title

Purpose

Discussion

to enjoy a minimally acceptable quality of life. Therefore, your Committee on Conference finds it is in the public's interest to raise the monthly needs allowance from \$30 to \$50.

Discussion

Your Committee on Conference amended this measure to:

- (1) Provide that the monthly needs allowance shall also be paid to individuals who are incapacitated; provided that the operator of the residence or facility at which the person resides spends the money on behalf of the person and provides a written accounting of the spending;
- (2) Take effect on July 1, 20__; and
- (3) Make technical nonsubstantive changes for the purposes of clarity and consistency.

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. 1182, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1182, S.D. 2, 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. 2448
 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. 2448, H.D. 2, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO MEDICAID,"

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 establish a formula for calculating the amount to be contributed by the State towards a Medicaid recipient's attorney's fees and costs incurred in obtaining a judgment, settlement, or award, in lieu of recovering the full amount. Among other things, this measure:

- (1) Clarifies that a notice of lien sent by the Department of Human Services for reimbursement of Medicaid benefits shall be accompanied by an itemized list of payments made by the Department;

Title

Purpose

- (2) Caps the amount of the Department's lien at one-third of the settlement, judgment, or award, after its contribution for attorney's fees and expenses;
- (3) Defines the term "medical institution"; and
- (4) Requires the Department of Human Services to provide a written notice of lien to the court when restitution is sought from a third person in a criminal proceeding.

Purpose

Your Committee on Conference has amended this measure by:

- (1) Authorizing the Department of Human Services to develop fair and equitable reimbursement levels for nursing facility residents who are Medicaid recipients;
- (2) Authorizing the Department of Human Services to develop an equitable referral system for Medicaid clients transferring from hospitals to community-based care homes;
- (3) Changing the effective date to upon its approval; and
- (4) Making technical nonsubstantive amendments for 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. 2448, 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. 2448, 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), 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

Sirs:

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 House the final passage of this bill in an amended form.

The purpose of H.B. No. 2428-08, H.D. 1, S.D. 2, C.D. 1, 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) (A) The person is unemployed for reasons other than voluntary separation without good cause or for misconduct; and

- (B) The person is actively and diligently seeking gainful employment; or
- (2) (A) The person has exhausted all of the person's benefits if the person is entitled to such benefits under chapter 383, Hawaii Revised Statutes; and
- (B) The person has 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

NAME, Member

NAME, Member

Example 10-7

ADVISE AND CONSENT Cabinet Member

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: GOV. MSG. NO. 268

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 Governor's Message No. 268, submitting for study and consideration the nomination of:

DIRECTOR OF THE DEPARTMENT OF BUDGET AND FINANCE

G.M. No. 268 GEORGINA K. KAWAMURA,
for a term to expire 12-6-2010,

begs leave to report as follows:

Your Committee reviewed the personal statement and resume submitted by the nominee and finds Georgina K. Kawamura to have the necessary qualifications to serve as the Director of Finance.

Your Committee received comments in support of the nomination of Ms. Kawamura as Director of Finance from Mr. Robert N. E. Piper, Deputy Director, Department of Budget and Finance and nine managers and senior staff members from the Department of Budget and Finance; Mr. David Shimabukuro, Administrator, Employees' Retirement System; Major General Robert G.F. Lee, Hawaii National Guard; Mr. Carlito P. Caliboso, Chairperson, Public Utilities Commission; the Board of Trustees, Office of Hawaiian Affairs; Mr. Larry Reifurth, Deputy Director, Department of Commerce and Consumer Affairs; Mr. Orlando "Dan" Davidson, Hawaii Housing Finance and Development Division; Mr. Jack Tonaki, State Public Defender; Mr. Jim Williams, Administrator, Hawaii Employer-Union Health Benefits Trust Fund; Mr. Brian Sekiguchi, Deputy Director, Airports Division, Department of Transportation; Ms. Charmaine Tavares, Mayor, County of Maui; Mr. Ronald D. Kouchi and Mr. Mel Rapozo, Council members, Kauai County Council, Mr. Peter Fithian,

Airport Concessionaires; Mr. Colbert M. Matsumoto, Chairman and CEO, Island Insurance Companies; Mr. Randall J. Hee, President and CEO, Kauai Island Utility Cooperative; the State of Hawaii Organization of Police Officers; and Mr. Christopher Grandy, University of Hawaii.

Your Committee finds that, consistent with the exemplary comments received on her behalf, her four years as Director of Finance, and an extensive and impressive professional background in management and finance, Director Kawamura has also distinguished herself as an ex-officio member of the Board of Trustees of the Employees' Retirement System (ERS). The Administrator of the ERS testified that Director Kawamura "approached issues facing the ERS with a long-term perspective, which is important for the health of the ERS. She asks the right questions before making decisions, and more importantly has done what is in the best interest of the ERS members."

In a rare expression of support and respect, nine Department of Budget and Finance managers and senior staff members expressed their support for Director Kawamura and testified that "[s]he has a remarkable ability to absorb details of the operating and CIP budget and displays a thorough understanding of budgeting principles and practices. She has brought graciousness, composure, and level-headedness to the position, along with her sense of humor and energy. Ms. Kawamura has actively pushed and prodded both our staff and departmental staffs to develop better performance measures and to more fully integrate these measures into budget decision making and budget presentations. She has also led the charge in making the State's budget documents more understandable and 'user friendly.'" "[We have] observed first hand Mrs. Kawamura's genuine commitment, sensitivity, and concern for the well-being of her employees. In her first four years as Director of Finance, she has demonstrated through decision making and her interaction with employees an innate ability to balance equity and fairness with appreciation and compassion. She has made 'right' decisions when the choices are difficult ones and has earned our respect in the process."

Director Kawamura is also respected by the business community, as evidenced by comments submitted by the President of Kauai Island Utility Cooperative, who testified, "Mrs. Kawamura being open-minded and willing to listen to our concerns as the first electric cooperative in the State of Hawaii not only supported our endeavor, but also assisted KIUC with the proposed language. KIUC feels her efforts were above and beyond, and would like to recognize her as being instrumental in the successful passing of our legislation."

Director Kawamura is also admired and respected by many friends, such as Colbert Matsumoto who has remained loyal to her over the years because she is "a source of 'community pride,' that someone who grew up in the small community of Lanai could assume such an important

public role. She distinguished herself and demonstrated her capacity to take on the weighty challenges of that position [as Director of Finance]."

Your Committee also finds that, while supporting her confirmation, Senators expressed concerns about delays in grants-in-aid being released to nonprofit organizations that provide valuable community services. Senators requested that Director Kawamura implement improved processes and technical assistance to departments to expedite the release of such funds. In addition, Senators requested the Department of Budget and Finance to compile comprehensive vacancy reports for all departments so that legislators can better understand various departments' labor needs. Director Kawamura expressed her willingness to work with the departments and your Committee to address these concerns.

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, 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 Ways and Means,

NAME, Chair

Example 10-8

ADVISE AND CONSENT Commission Member

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: GOV. MSG. NOS. 421, 615

Honorable (Name)
President of the Senate

State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred Governor's Message Nos. 421 and 615, submitting for study and consideration the nominations of:

KAHO'OLAWA ISLAND RESERVE COMMISSION

G.M. No. 421 MILTON M. ARAKAWA,
for a term to expire 6-30-2011; and

G.M. No. 615 CRAIG A. NEFF,
for a term to expire 6-30-2011,

begs leave to report as follows:

Your Committee received testimony in support of Milton M. Arakawa from Munekiyo Hiraga, Inc.; Chair of the Kaho'olawe Island Reserve Commission; one Maui Councilmember; and one individual.

The nominee is the Director of the Department of Public Works and Environmental Management, County of Maui. He has worked for the Hawaii Community Development Authority and the Department of Planning and Economic Development.

Mr. Arakawa received a Bachelor of Arts degree in History and Sociology, a Master of Arts in Sociology degree, and a Master of Urban and Regional Planning from the University of Hawai'i at Manoa. He is a member of the American Planning Association, American Institute of Certified Planners, and Kiwanis Club of Maui.

Your Committee notes the nominee's personal statement to the effect that the Kaho'olawe Island Reserve Commission should act as a

steward of the Island of Kaho'olawe. All actions on the island should be done in accord with a master plan. The plan should outline specific achievable steps to maximize and leverage finite resources, as well as maximize efforts in the areas of environmental restoration, enhancement of cultural resources, and development of appropriate infrastructure.

Your Committee received testimony in support of Craig A. Neff from the Office of Hawaiian Affairs; Kaho'olawe Island Reserve Commission; Kohe Malamalama O Kanaloa; and six individuals.

The nominee is the owner of The Hawaiian Force, a retail clothing boutique in Hilo that features his artwork and designs on clothing and other items. He has previous service with the Kaho'olawe Island Reserve Commission from 1994-1999, and 2001-2002. Mr. Neff has been a member since 1981 of the Protect Kaho'olawe 'Ohana. His community service includes protection and repatriation of iwi kupuna on Moloka'i and Kaho'olawe.

Mr. Neff received a Bachelor of Fine Arts degree from the University of Hawai'i at Manoa. Your Committee notes his personal statement to the effect that he has been consistently involved with Kaho'olawe as a member of the Protect Kaho'olawe Ohana for the past twenty-six years. He has walked the island from ili to ili, and has paddled around the island from bay to bay. He served on the Kaho'olawe Island Reserve Commission in its formative years which focused on the development of safety and management policies, plans, and protocols. He has been involved in each and every burial protection and stabilization process conducted on the island. Mr. Neff is trained as a Na'alapa in the protocols to protect and stabilize the religious and cultural sites on Kaho'olawe.

As affirmed by the records of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs 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, Land, Agriculture, and
Hawaiian Affairs,

(NAME), Chair

ADVISE AND CONSENT

Judicial

RE: GOV. MSG. NO. 349

Judge Nacino received a Bachelor of Arts degree from the University of Hawaii at Manoa and a Juris Doctor degree from the William S. Richardson School of Law at the University of Hawaii at Manoa. Before entering the William S. Richardson School of Law, Judge Nacino was employed full-time as a Honolulu police officer for approximately 8 ½ years, assigned to the patrol division. He is currently serving as a District Judge with the District Court of the First Circuit. Judge Nacino has broad experience in both civil and criminal litigation. Prior to his tenure at the District Court, Judge Nacino practiced law in the private sector as an associate attorney and a then partner with Roeca, Louie & Hiraoka, specializing in civil litigation. He also has experience in the public sector, as a Deputy Corporation Counsel for the City and County of Honolulu, working in the civil litigation area, and as a deputy Prosecuting Attorney with the Honolulu Prosecutor's Office, trying criminal cases at the District, Family, and Circuit Court levels. Additionally, Judge Nacino has demonstrated a strong commitment to the well-being of the community through his service with community organizations, and to fostering excellence in Hawaii's legal community through teaching law students at the University of Hawaii.

Testimony submitted in support of the nomination highlights the breadth of Judge Nacino's legal background and the scope of his trial experience. His many years of experience as a judge, arbitrator, prosecutor, deputy corporation counsel, and attorney in private practice have given him a thorough understanding of the judicial system. Testimony characterizes Judge Nacino as a jurist who can see both sides of an issue and who demonstrates common sense in dealing with others and the matters before him. Judge Nacino also displays a mature and balanced judicial temperament that reflects his high level of ethics, fairness, and integrity.

Your Committee finds that, based on the testimony submitted on his behalf, Judge Nacino has the experience, temperament, judiciousness, and other competencies to be a Circuit Court judge, and has a good sense of where the equities, rights, and responsibilities lie in a case, which is essential for a Circuit Court judge.

As affirmed by the record of votes by the members of your Committee on Judiciary and Government Operations 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.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Government Operations,

(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 HIGH TECHNOLOGY DEVELOPMENT CORPORATION

G.M. No. ____ (NAME),
for a term to expire 6-30-2011,

begs leave to report as follows:

Your Committee received testimony in support of (Name) from the Department of Business, Economic Development, and Tourism; High 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 High 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. For example, 2007 legislation alone would have the Corporation responsible for a ten-year lease commitment in the proposed technology incubator in

Kakaako and an expansion of its role with the proposed digital media hub. 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 High Technology Development Corporation in meeting its statutory requirements of facilitating the growth and development of the commercial high technology industry in Hawaii during a period of transition for the Corporation.

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 bill 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 bill and has
heard testimony from many interested persons on the arguments for and
against capital punishment.

Your Committee has amended the bill in order to clarify the basic concepts relating to capital punishment and to conform other provisions of the Hawaii Penal Code.

This bill, 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 statuary 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:

MINORITY REPORT ON
CONFERENCE COM. REP. NO.
Page 2

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

SINGLE PURPOSE ALSO "GUT AND REPLACE" AMENDMENTS

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: H.B. No. 451

H.D. 1

S.D. 1

Honorable (Name)
President of the Senate
_____ State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 451, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO GRAFFITI,"

begs leave to report as follows:

The purpose of this measure is to establish the graffiti eradication sentencing program within the Judiciary to coordinate the implementation, scheduling, and monitoring of graffiti eradication activities for graffiti offenders who have been sentenced to community service.

This measure also amends the offense of aggravated criminal property damage, section 708-823.5, Hawaii Revised Statutes, by deleting the five year look-back period to make the defendant subject to the charge of aggravated criminal property damage as long as the defendant has two prior convictions for criminal property damage, regardless of when they occurred.

Your Committee received testimony in support of this measure from the Downtown Neighborhood Board No. 13, Hui o Makiki, and a concerned citizen. The Judiciary offered comments on the measure.

Your Committee has amended this measure by deleting its contents and replacing them with the provisions of Senate Bill No. 228, S.D. 1, and Senate Bill No. 676, S.D. 1. As amended, this measure:

- (1) Provides that if a minor is found to have committed an act constituting graffiti, the court shall:
 - (A) Require the minor, the minor's parents, or the minor's legal guardians to remove the graffiti from the affected property within sixty days of the order and pay for the cost of paint and materials; and
 - (B) Order the minor to perform a minimum of eighty hours of community service to remove graffiti from other properties;
- (2) Reduces the number of criminal property damage convictions in the preceding five years necessary to charge a person with aggravated criminal property damage from two to one; and
- (3) Requires a person convicted of aggravated criminal property damage to perform eighty hours of community service eradicating graffiti, at the person's own expense if necessary; provided that the community service time increases to one hundred-sixty hours if the person has a prior conviction for aggravated criminal property damage.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 451, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 451, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on behalf
of the members of the Committee
on Judiciary and Labor,

(NAME), Chair

Example 10-15

COMMITTEE REPORT--PURPOSE PARAGRAPH

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: H.B. No. 861

Honorable (Name)
Speaker, House of Representatives

State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Economic Development & Business Concerns, to which was referred H.B. No. 861 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC WORKS,"

begs leave to report as follows:

The purpose of this bill is to ensure that the prevailing wage is paid to workers at private construction projects funded by special purpose revenue bonds by:

- (1) Requiring that the Director of Finance report to the Department of Labor and Industrial Relations on any issuances of special purpose revenue bonds for private projects that fall within the definition of "public works project" in the prevailing wage law but are not directly caused by a governmental contracting agency; and
- (2) Requiring the Department of Labor and Industrial Relations to serve as the governmental contracting agency and enforce the prevailing wage law for these private projects.

The International Brotherhood of Electrical Workers Local Union 1186, Ironworkers Union Local 625, and Hawaii State AFL-CIO submitted testimony in support of this bill. The Department of Budget and Finance and Department of Labor and Industrial Relations opposed the measure.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business Concerns that is attached to this report, your Committee is in accord with the intent and

purpose of H.B. No. 861 and recommends that it be referred to the Committee on Finance.

Respectfully submitted on behalf
of the members of the Committee
on Economic Development &
Business Concerns,

(NAME), Chair

Example 10-16

COMMITTEE REPORT--AMENDMENT PARAGRAPH Committee Report for Resolution

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: H.C.R. No. 45
H.D. 1

Honorable (Name)
Speaker, House of Representatives

State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which
was referred H.C.R. No. 45 entitled:

"HOUSE CONCURRENT RESOLUTION REQUESTING THE AUDITOR TO
CONDUCT A SUNRISE REVIEW OF THE REGULATION OF AIR
CONDITIONING PIPEFITTERS, FIRE SPRINKLER TECHNICIANS, AND
SOLAR TECHNICIANS,"

begs leave to report as follows:

The purpose of this measure is to request the Auditor to conduct
a sunrise review of the regulation of air conditioning pipefitters,
fire sprinkler technicians, and solar technicians as proposed under
an unidentified House Bill.

The General Contractors Association of Hawaii opposed this
measure. The Board of Electricians and Plumbers and the Plumbers
and Fitters Union, Local 675, submitted comments.

After careful consideration, your Committee has amended this
measure by:

- (1) Changing the term "air conditioning pipefitter" to the
term "plumber air conditioning and refrigeration
pipefitter" throughout the measure, including its title;
- (2) Changing the term "fire sprinkler technician" to the term
"plumber fire sprinkler pipefitter" throughout the
measure, including its title;
- (3) Changing the term "solar technician" to the term
"plumber solar-thermal technician" throughout the

measure, including its title;

- (4) Removing references to the unidentified House Bill and to section 26H-6, Hawaii Revised Statutes;
- (5) Adding a reference to the applicable codes published by the International Association of Plumbing and Mechanical Officials that detail the scope of work and qualifications for a plumber air conditioning and refrigeration pipefitter, plumber fire sprinkler pipefitter, and plumber solar-thermal technician; and
- (6) Making technical nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 45, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.C.R. No. 45, H.D. 1.

Respectfully submitted on
behalf of the members of
the Committee on Consumer
Protection & Commerce,

(NAME), Chair

Example 10-17

STANDING COMMITTEE REPORT "Technical Nonsubstantive" Amendments

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: S.B. No. 1370
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. 1370 entitled:

"A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS,"

begs leave to report as follows:

The purpose of this measure is to allow the Department of Budget and Finance to assess fixed fees incurred in connection with the issuance of special purpose revenue bonds to provide the project party in advance with proper notice about the fees.

The Department of Budget and Finance submitted supporting comments.

Currently, when issuing special purpose revenue bonds, the Department of Budget and Finance incurs costs, but cannot determine the actual expenses and bill the project party until the bonds have been issued. Occasionally, this leads to disputes by the project party about the amount of costs incurred by the Department of Budget and Finance.

Your Committee agrees that establishing a fee schedule by way of adopting administrative rules will permit the Department to provide the project party with the specific amount of fees that will be assessed for issuing bonds for a specific project so that the project party has advance notice and can plan accordingly. It is your Committee's belief that this procedure will prevent disputes about costs almost entirely.

Your Committee has amended the bill to conform to current statutory language and has made technical nonsubstantive changes for the purposes of style, clarity, and consistency.

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. 1370, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1370, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on behalf
of the members of the Committee
on Ways and Means,

(NAME), Chair

Example 10-18

COMMONLY OCCURRING AMENDMENTS Suggested Language

Changing the Appropriation Amount

"Your Committee has amended this measure to change the appropriation amount from \$50,000 to \$1 (*or "an unspecified amount"*) to facilitate further discussion."

"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:

"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."

"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 changes for purposes of style, clarity, and consistency."

"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. 417
S.D. 1

Honorable (Name)
President of the Senate

State Legislature
Regular Session of 20__
State of Hawaii

Sir:

Your Committee on Health, to which was referred S.B. No. 417
entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

begs leave to report as follows:

The purpose of this short form bill is to amend the law
relating to health.

Prior to the hearing on this measure, a proposed S.D. 1 was
prepared and made available for public review. Your Committee has
adopted the proposed S.D. 1, which amends this measure by
inserting language that changes the membership of the Hawaii
Health Systems Corporation's corporation board by:

- (1) Adding a member who alternately represents the eastern
and western regions of the county of Hawaii;
- (2) Replacing the regional chief executive officers with
community members from each respective region; and
- (3) Removing the at-large member selected by the Governor.

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 intent and purpose of S.B. No.
417, as amended herein, and recommends that it be recommitted to
the Committee on Health, in the form attached hereto as S.B.
No. 417, S.D. 1, for further consideration.

STAND. COM. REP. NO.

Page 2

Respectfully submitted on
behalf of the members of the
Committee on Health,

(NAME), Chair

Example 10-20

HOUSE SHORT FORM BILL RECOMMITTED TO COMMITTEE

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 20__

RE: H.B. No. 609
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. 609
entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

begs leave to report as follows:

The purpose of this bill is to effectuate its title.

H.B. No. 609 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.

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. 609, as amended herein, and recommends that it be recommitted to the Committee on Health, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 609, H.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Health,

(NAME), Chair

Example 10-21

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 the 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 the 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 the form attached hereto as [Bill No. with Draft No.], and be referred to the 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 the 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 the 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 the 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 the 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 the 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 action to report out [Bill No.], as amended herein, and recommends that it be recommitted to the 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 action to report out [Bill No.], as amended herein, and recommend that

it be recommitted to the 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

H.B. No. [Bill No.] 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 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.

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 the 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

H.B. No. [Bill No.] 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 long form.

Your Committees have 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.

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 the 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 the 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 the 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 the 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 the 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, character, 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, character, 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, character, 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, character, experience, and qualifications of the nominee, recommends that the Senate not advise and consent to the nomination.

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, character, 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
	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	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

Sec.	1-1	Common law of State; exceptions
	1-2	Certain laws not obligatory until published
	1-3	Laws not retrospective
	1-4	Persons and property subject to laws
	1-5	Contracts in contravention of law
	1-6	Prohibitory law, effect
	1-7	Repeal of laws
	1-8	No revivor on repeal; exception
	1-9	Express or implied repeals
	1-10	Effect of repeal on accrued rights
	1-11	Effect of repeal on pending suit or prosecution

Construction of Laws

Sec.	1-12	Application of statutory construction provisions
	1-13	English version controls
	1-14	Words have usual meaning
	1-15	Construction of ambiguous context

1-16	Laws in pari materia
1-17	Number and gender
1-18	"Or", "and"
1-19	"Person", "others", "any"
1-20	"Month", "year"
1-21	"Oath"
1-22	"County"
1-23	Severability
1-24	Interpretation of uniform acts
1-25	References apply to amendments
1-26	References inclusive
1-27	Citations of laws included in supplements
1-28	Service of notice by mail

Computation of Time and Holidays

Sec.	1-29	Computation of time
	1-30	Hawaiian standard time applicable
	1-31	Hawaiian standard time; definition; observance
	1-32	Acts to be done on holidays
	8-1	Holidays designated

See also:

Chapter 26	Executive and Administrative Departments
Chapter 26H	Sunset Law - Hawaii Regulatory Licensing Reform Act
Chapter 42F	Grants, Subsidies, and Purchases of Services
Chapter 91	Administrative Procedure Act
Chapter 92	Sunshine Law - Public Agency Meetings and Records
Chapter 92F	Uniform Information Practices Act

Appendix B

SHORT FORM BILL EXAMPLE

A BILL FOR AN ACT

(Title)

RELATING TO, ETC.

(Enacting Clause)

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

SECTION 1. **(Purpose)** The purpose of this Act is to effectuate the title of this Act.

SECTION 2. **(Means)** The Hawaii Revised Statutes is amended to conform to the purpose of this Act.

SECTION 3. **(Effective Date)** This Act shall take effect upon its approval.

Appendix C

ADDING A NEW CHAPTER OR NEW SECTION TO THE HAWAII REVISED STATUTES

NEW CHAPTER

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

TITLE

PART I. TITLE

§ -1 Title. -----
-----.

§ -2 Title. -----
-----.

PART II. TITLE

§ -11 Title. -----
-----.

§ -12 Title. -----
-----."

NEW SECTION

SECTION 1. The Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

"§ - **Title.** (a) -----
-----.

(b) -----
-----."

Appendix D

REPEALING AN EXISTING CHAPTER

H.B. or S.B. NO. _____

A BILL FOR AN ACT

RELATING TO PETROLEUM PRODUCTS.

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

SECTION 1. Chapter 451, Hawaii Revised Statutes, is repealed.

SECTION 2. This Act shall take effect upon its approval.

INTRODUCED BY: _____

Appendix E

HOUSE FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

AMENDMENT TO: H.B. No. 143, H.D. 1

OFFERED BY: _____

DATE: _____

SECTION 1. House Bill No. 143, H.D. 1, is amended by amending lines 17 to 21 on page 2 to read:

"twenty-five days after a copy of the decision has been sent to each party the director [~~of labor and industrial relations~~] may upon [~~his~~] the director's own motion or upon the application of any party reopen a case to permit the introduction of newly discovered evidence~~[7]~~ or permit the testimony of further witnesses, and may render a revised decision."

CARRIED

FAILED TO CARRY

WITHDRAWN

CHIEF CLERK, HOUSE OF REPRESENTATIVES

(See chapter 5 on Ramseyer format, section 6b. In addition to above, the House requires the complete bill being amended to be amended to conform to the floor amendment and submitted with the floor amendment.)

Appendix F

SENATE FLOOR AMENDMENT

FLOOR AMENDMENT NO. _____ **Date** _____

TO: S.B. No. 761

SECTION 1. Senate Bill No. 761, section 1, is amended as follows:

1. By amending lines 5 and 6 on page 20 to read:

"(2) To sell or offer to sell a franchise in this State by means of any written or oral communication which includes an untrue statement of a material fact or"

2. By amending line 12 on page 26 to read:

"registration by filing with the director an application together"

Offered by: _____ () **Carried**

() **Failed to Carry**

() **Withdrawn**

(See chapter 5 on Ramseyer format, section 6b. In addition to above, the Senate requires the page or pages of the bill being amended to be properly amended to conform to the floor amendment, typed, and submitted with the floor amendment.)

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