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# A BILL FOR AN ACT

RELATING TO IMPEACHMENT.

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

1           SECTION 1. Article III, section 19, of the Hawaii  
2 Constitution authorizes the removal of the governor, lieutenant  
3 governor, and any appointive officer for whose removal the  
4 consent of the senate is required. Article V, section 6, of the  
5 Hawaii Constitution authorizes the removal of the chief legal  
6 officer of the State subject to the advice and consent of the  
7 Senate. However, the Hawaii Revised Statutes are absent of any  
8 provisions for impeachment of these officers.

9           The purpose of this Act is to clarify by statute the  
10 process for impeaching and removing the governor, lieutenant  
11 governor, and appointive officers of the State.

12           SECTION 2. The Hawaii Revised Statutes is amended by  
13 adding a new chapter to be appropriately designated and to read  
14 as follows:

15   "CHAPTER

16   IMPEACHMENT

17   PART I. IMPEACHMENT GENERALLY



1           §   -1   **Impeachment; causes for.** (a) The governor,  
2 lieutenant governor, and any appointive officer for whose  
3 removal the consent of the senate is required shall be removed  
4 from office upon impeachment for and conviction of any of the  
5 following:

6           (1)   Treason, bribery, or other high crimes and  
7                misdemeanors;

8           (2)   Misfeasance, malfeasance, or nonfeasance; or

9           (3)   Moral turpitude.

10          (b)   Impeachment shall require a majority vote by the  
11 members of the house of representatives.

12                                   **PART II. APPOINTIVE OFFICERS**

13          §   -10   **Appointive officers; generally.** The house of  
14 representatives shall have the sole power of impeachment of  
15 appointive officers for whose removal the consent of the senate  
16 is required and the senate shall have the sole power to try such  
17 impeachments. When sitting for that purpose, the members of the  
18 senate shall be under oath or affirmation and the chief justice  
19 shall preside.

20          §   -11   **Investigative committee.** The house of  
21 representatives shall have the power at any time to appoint a



1 committee to investigate charges against any appointive officer  
2 subject to impeachment.

3       § -12 **Disqualification.** An appointive officer impeached  
4 by the house of representatives shall be disqualified from  
5 performing any official duties until acquitted by the senate,  
6 and the governor may fill the office by appointment until  
7 completion of the trial.

8       § -13 **Articles of impeachment.** Impeachment shall be  
9 instituted in the house of representatives by resolution, passed  
10 by a majority of the members, and conducted by managers elected  
11 by the house of representatives, who shall prepare articles of  
12 impeachment, present them at the bar of the senate, and  
13 prosecute them.

14       § -14 **Impeachment hearing; service on accused.** (a) The  
15 impeachment shall be heard before the senate, sitting as a court  
16 of impeachment. The senate shall assign a day for hearing the  
17 impeachment and inform the house of representatives thereof.

18       (b) The president of the senate shall cause a copy of the  
19 articles of impeachment, with a notice to appear and answer them  
20 at the time and place appointed, to be served on the accused not  
21 less than ten days before the day fixed for the hearing. The



1 service shall be made by the sergeant-at-arms of the senate upon  
2 the accused personally, or, if the accused cannot upon diligent  
3 inquiry be found within the state, the senate, upon proof of  
4 such fact, may order publication of the notice to be made in a  
5 manner it deems proper.

6       § -15 **Court of impeachment; organization.** Not later than  
7 ten days after the articles of impeachment have been presented  
8 to the senate, the senate shall organize as a court of  
9 impeachment and, for the purpose of conducting the proceedings  
10 of that court, may appoint a clerk, who may be the clerk of the  
11 senate. The clerk shall issue all process and keep a record of  
12 the proceedings of the court. The court shall also appoint a  
13 marshal, who shall be the sergeant-at-arms of the senate, and an  
14 assistant marshal. The senate, sitting as a court of  
15 impeachment, may also employ any legal, stenographic, clerical,  
16 and other assistance as is required and fix the compensation of  
17 the individuals providing such assistance.

18       § -16 **Witness fees; execution of process.** (a) Witnesses  
19 shall receive the same compensation for travel and attendance,  
20 and the same exemptions in going, remaining, and returning, as  
21 witnesses in civil proceedings conducted in the courts.



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1 (b) Officers executing the process and orders of the court  
2 of impeachment shall receive the fees allowed sheriffs for  
3 similar service in the courts.

4 § -17 Absence of senator from hearing. The senate, while  
5 sitting as a court of impeachment, shall determine what  
6 accumulation of absences of a senator during the hearing shall  
7 exclude the senator from voting on the final decision.

8 § -18 Compensation of impeachment personnel. (a) The  
9 senators composing the court of impeachment and the managers  
10 representing the house of representatives shall be paid during  
11 the impeachment trial travel expenses and allowance provided by  
12 law for members of the legislature when convened in regular  
13 session.

14 (b) The managers shall be allowed the same compensation  
15 for the time required in preparing the proceedings for  
16 presentation to the court of impeachment together with their  
17 actual and necessary expenses; provided that these expenses  
18 include the personal or subsistence expenses of the managers.  
19 In addition, the managers, during the preparation of the  
20 proceedings and the trial, may also employ legal, stenographic,



1 clerical, and other assistance as is required and fix the  
2 compensation of the individuals providing such assistance.

3 (c) The members, officers, employees of the court of  
4 impeachment, the board of managers, and all employees of the  
5 board of managers shall be paid on verified claims approved by  
6 the presiding justice of the court of impeachment and attested  
7 by its clerk.

8 (d) Court reporters employed by the court of impeachment  
9 may be paid the compensation provided by law for reporting  
10 proceedings before the courts and shall also receive from the  
11 party ordering a transcript of the proceedings, the compensation  
12 provided by law for such services.

13 (e) In lieu of the procedures prescribed by subsection  
14 (d), the court of impeachment may provide by contract for the  
15 reporting and transcription of the proceedings.

16 § -19 Expenses of impeachment proceedings. The expenses  
17 of impeachment proceedings, after the legislature has adjourned,  
18 shall be a charge upon the general fund of the State and shall  
19 be paid from any money in the general fund not otherwise  
20 appropriated upon verified claims, approved and attested as  
21 provided in section -18.



1           §   -20   Vacancy in board of managers.  When a vacancy  
2 occurs in the board of managers selected by the house of  
3 representatives to try impeachment proceedings before the  
4 senate, and the house of representatives is not in session, the  
5 speaker or the presiding member, or if there is no presiding  
6 member, then the vice speaker of the house, shall appoint a  
7 member of the house to fill the vacancy.

8           §   -21   Appearance of accused; plea.  (a)  If the accused  
9 does not appear, the court of impeachment, upon proof of service  
10 or publication and upon motion or for cause shown, may assign  
11 another day for hearing the impeachment proceedings or may  
12 proceed to trial and judgment in the absence of the accused.

13           (b)  The accused may object, in writing, to the sufficiency  
14 of the articles of impeachment, or the accused may answer them  
15 by an oral plea of not guilty.  The plea of not guilty shall be  
16 entered upon the journal and shall place in issue every material  
17 allegation of the articles of impeachment.

18           (c)  If the objection to the sufficiency of the articles of  
19 impeachment is not sustained by a majority of the members of the  
20 court of impeachment who heard the argument, the accused shall  
21 be ordered to answer the articles of impeachment.  If the



1 accused then pleads guilty or refuses to plead, the court of  
2 impeachment shall render judgment of conviction against the  
3 accused. If the accused pleads not guilty, the court of  
4 impeachment shall try the impeachment at the time it appoints.

5       § -22 Judgment. If the accused is convicted, the court  
6 of impeachment, at the appointed time, shall pronounce judgment  
7 by resolution entered upon the journals of the court, which  
8 shall be the judgment of the senate. The judgment of conviction  
9 may provide that the accused be removed from office or that the  
10 accused be removed from office and disqualified to hold any  
11 office of honor, trust, or profit under the constitution and  
12 laws of the State.

13                   PART III. GOVERNOR AND LIEUTENANT GOVERNOR;

14                               LEGISLATIVE RULES; SUCCESSION

15       § -31 Procedures in lieu of rules. In the case of the  
16 governor and the lieutenant governor, until the house of  
17 representatives adopts rules for impeachment proceedings and the  
18 senate adopts rules for trial proceedings, pursuant to article  
19 III, section 19, of the Hawaii Constitution, the house of  
20 representatives and the senate may apply the procedures of part  
21 II to those proceedings.







**Report Title:**

Impeachment

**Description:**

Establishes causes and procedures for impeachment of the governor, lieutenant governor, and appointive officers.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

