

**DRAFT PROPOSED SENATE RULES (2023)**

Commission to Improve Standards of Conduct  
10.26.2022

Current SENATE Rules <b>Conflicts of Interest</b>	Draft Proposed SENATE Rules Redlined Against Current	Draft Proposed SENATE Rules Clean
<p>SENATE Rule 85(1) No member shall vote on any legislation if the member has a direct financial interest in the legislation, unless the member is part of the class of people affected by the official action based upon the member's profession, trade or business; provided that this rule shall not apply to votes on the recommendations of a committee when a member has disclosed a potential conflict. For the purposes of this rule, a "direct financial interest" means that the legislation affects the legislator's personal business, property, or financial interest.</p>	<p>SENATE Rule 85(1) No member shall vote on-, <u>support or oppose, make recommendations on, discuss or debate, or take other official action on any question or legislation</u> if the member has a <u>conflict of direct financial</u> interest in the <u>question or legislation</u>, <del>unless the member is part of the class of people affected by the official action based upon the member's profession, trade or business; provided that this rule shall not apply to votes on the recommendations of a committee when a member has disclosed a potential conflict.</del></p> <p>For the purposes of this rule, a <u>"conflict of direct financial</u> interest" means that the legislation affects the <u>legislator's member's</u> personal, <u>familial</u>, business, property, or financial interest <u>in favor of the member, unless the conflict is general and applies to a broad class of people affected by the legislation.</u></p> <p><u>"Conflict of interest" is defined broadly to encompass a variety of situations in which any private interest of a member, or of the member's business associate or</u></p>	<p>SENATE Rule 85(1) No member shall vote on, support or oppose, make recommendations on, discuss or debate, or take other official action on any question or legislation if the member has a conflict of interest in the question or legislation.</p> <p>For the purposes of this rule, a "conflict of interest" means that the legislative matter affects the member's personal, familial, business, property, or financial interest in favor of the member, unless the conflict is general and applies to a broad class of people affected by the legislation.</p> <p>"Conflict of interest" is defined broadly to encompass a variety of situations in which any private interest of a member, or of the member's business associate or immediate family member, is or could reasonably be in direct conflict with the member's duty to act in the public interest, including the following:</p> <ol style="list-style-type: none"> <li>1. Any situation in which a familial, business, property, or financial interest would be affected by the member's official legislative</li> </ol>

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	<p><u>immediate family member, is or could reasonably be in direct conflict with the member’s duty to act in the public interest, including the following:</u></p> <p><u>1. Any situation in which a familial, business, property, or financial interest would be affected by the member’s official legislative action, excluding incidental or nominal gain or detriment;</u></p> <p><u>2. Any situation involving personal, political, legal, reputational, or other issues which would cause a reasonable person with knowledge of relevant facts to question either the member’s impartiality in the matter, or the member’s ability to exercise official legislative action in a fair, unbiased, and objective manner;</u></p> <p><u>3. Any situation in which a member’s official legislative action would affect a lobbying organization or lobbyist with which the member was employed or received any personal compensation from during the previous five years.</u></p> <p><u>4. Any situation in which a member’s official legislative action would affect a business or undertaking in which the</u></p>	<p>action, excluding incidental or nominal gain or detriment;</p> <p>2. Any situation involving personal, political, legal, reputational, or other issues which would cause a reasonable person with knowledge of relevant facts to question either the member’s impartiality in the matter, or the member’s ability to exercise official legislative action in a fair, unbiased, and objective manner;</p> <p>3. Any situation in which a member’s official legislative action would affect a lobbying organization or lobbyist with which the member was employed or received any personal compensation from during the previous five years.</p> <p>4. Any situation in which a member’s official legislative action would affect a business or undertaking in which the member holds or held an interest during the previous three years, including a private undertaking in which the member is or was engaged as legal counsel, advisor, consultant, representative or other agency capacity.</p> <p>5. Any situation in which a member’s official legislative action would affect a person or agency that has investigated any issue</p>
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	<p><u>member holds or held an interest during the previous three years, including a private undertaking in which the member is or was engaged as legal counsel, advisor, consultant, representative or other agency capacity.</u></p> <p><u>5. Any situation in which a member’s official legislative action would affect a person or agency that has investigated any issue relating to the member in the prior two years[, if the investigation found improper conduct on the part of the member, unless the member’s action would be favorable to the investigating person or agency].</u></p> <p><u>6. Any situation in which a member’s business associate or close relative accepts a [significant] gift from any person or entity whose financial interest would be affected by pending legislative action or inaction, and the member knows or reasonably should know that the person or entity’s intent in making the gift is to influence the member in the performance of the member’s official legislative duties or is intended as a reward for action or inaction taken by the member;</u></p>	<p>relating to the member in the prior two years[, if the investigation found improper conduct on the part of the member, unless the member’s action would be favorable to the investigating person or agency].</p> <p>6. Any situation in which a member’s business associate or close relative accepts a [significant] gift from any person or entity whose financial interest would be affected by pending legislative action or inaction, and the member knows or reasonably should know that the person or entity’s intent in making the gift is to influence the member in the performance of the member’s official legislative duties or is intended as a reward for action or inaction taken by the member;</p> <p>7. Any situation in which public confidence in government would be substantially eroded by the member’s official legislative action affecting a personal interest, including action designed to intimidate or retaliate.</p> <p>“Immediate family member” means a parent, child, grandparent, grandchild, sibling, spouse, partner, or household member.</p> <p>“Business associate” means an owner, employee, contractor, or other agent of a</p>
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	<p><u>7. Any situation in which public confidence in government would be substantially eroded by the member’s official legislative action affecting a personal interest, including action designed to intimidate or retaliate.</u></p> <p><u>“Immediate family member” means a parent, child, grandparent, grandchild, sibling, spouse, partner, or household member.</u></p> <p><u>“Business associate” means an owner, employee, contractor, or other agent of a professional firm, partnership, or other business from which the member or the member’s immediate family member receives compensation or owns.</u></p>	<p>professional firm, partnership, or other business from which the member or the member’s immediate family member receives compensation or owns.</p>
<p>SENATE Rule 85(2) If a member is uncertain as to whether a conflict of interest exists, the member may request a ruling from the President by giving notice and disclosing the direct financial interest to the President prior to voting. When making a determination in cases where a portion of a measure may place a member in a conflict of interest, the President shall give due consideration</p>	<p>SENATE Rule 85(2) If a member is uncertain as to whether a conflict of interest exists, the member <u>shall preliminarily recuse themselves from voting, but</u> may request a ruling from the <u>presiding officer (the President or committee chair, as the case may be)</u> by giving notice and disclosing the <u>conflict of direct financial interest to the presiding officer in sufficient detail for the presiding officer to make an informed ruling</u> prior to voting.</p>	<p>SENATE Rule 85(2) If a member is uncertain as to whether a conflict of interest exists, the member shall preliminarily recuse themselves from voting, but may request a ruling from the presiding officer (the President or committee chair, as the case may be) by giving notice and disclosing the conflict of interest to the presiding officer in sufficient detail for the presiding officer to make an informed ruling prior to voting.</p>

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<p>to the context of that portion as it relates to the overall purpose of the measure. If the President determines that a conflict exists, the President shall excuse the member from voting.</p>	<p>When making a determination in cases where a portion of a measure may place a member in a conflict of interest, the <u>presiding officer and voting members</u> <del>President</del> shall give due consideration to the context of that portion as it relates to the overall purpose of the measure.</p> <p>If the <del>President</del> <u>presiding officer</u> determines that a conflict exists, the <del>President</del> <u>presiding officer</u> shall excuse the member from <u>discussion, debate, and</u> voting.</p> <p><u>If the presiding officer determines that no conflict exists, the matter will be presented to the floor (or committee), and if two-thirds of the voting members agree, the member shall be allowed to participate in discussion, debate, and voting. Members who have a conflict or possible conflict with respect to voting on the status of another member's conflict shall recuse themselves from that vote without further recourse.</u></p>	<p>When making a determination in cases where a portion of a measure may place a member in a conflict of interest, the presiding officer and voting members shall give due consideration to the context of that portion as it relates to the overall purpose of the measure.</p> <p>If the presiding officer determines that a conflict exists, the presiding officer shall excuse the member from discussion, debate, and voting.</p> <p>If the presiding officer determines that no conflict exists, the matter will be presented to the floor (or committee), and if two-thirds of the voting members agree, the member shall be allowed to participate in discussion, debate, and voting. Members who have a conflict or possible conflict with respect to voting on the status of another member's conflict shall recuse themselves from that vote without further recourse.</p>
<p>Current SENATE Rule <b>Disclosures</b></p>	<p>Draft Proposed SENATE Rule Redlined Against Current</p>	<p>Draft Proposed SENATE Rule Clean</p>
<p>SENATE Rule 83: Each member shall file with the Ethics Commission of the State of Hawai'i, a disclosure of the member's private financial interests,</p>	<p>SENATE Rule 83: Each member shall file with the Ethics Commission of the State of Hawai'i, a disclosure of the member's private financial interests, as prescribed</p>	<p>SENATE Rule 83. Each member shall file with the Ethics Commission of the State of Hawai'i, a disclosure of the member's private financial interests, as prescribed by law. Each member</p>

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<p>as prescribed by law. Each member shall file with the Ethics Commission any change in such financial interests.</p> <p>If a legislative matter which affects a member's interests arises before the member has made a disclosure to the Ethics Commission, the member shall disclose orally such interest to the Senate before voting. The member then shall immediately make the written disclosure required by law and the Rules of the Senate.</p> <p>Any member who has filed a disclosure as required by this Rule need not make a further oral disclosure on the Senate floor of any interest so filed.</p>	<p>by law. Each member shall file with the Ethics Commission any change in such financial interests.</p> <p>If a legislative matter which affects a member's interests arises before the member has made a disclosure to the Ethics Commission, the member shall disclose orally such interest to the Senate <u>prior to <del>before</del> voting and recuse themselves from voting, with the option to request a ruling in accordance with Rule 71.</u> The member then shall immediately make the written disclosure required by law and the Rules of the Senate.</p> <p>Any member who has filed a disclosure as required by this Rule need not make a further oral disclosure on the Senate floor of any interest so filed, <u>unless the disclosed financial interest presents a conflict as defined in Rule 85.</u></p>	<p>shall file with the Ethics Commission any change in such financial interests.</p> <p>If a legislative matter which affects a member's interests arises before the member has made a disclosure to the Ethics Commission, the member shall disclose orally such interest to the Senate prior to voting and recuse themselves from voting, with the option to request a ruling in accordance with Rule 71. The member then shall immediately make the written disclosure required by law and the Rules of the Senate.</p> <p>Any member who has filed a disclosure as required by this Rule need not make a further oral disclosure on the Senate floor of any interest so filed, unless the disclosed financial interest presents a conflict as defined in Rule 85.</p>
<p>Current SENATE Rule <b>Voting: Rights of Members</b></p>	<p>Draft Proposed SENATE Rule Redlined Against Current</p>	<p>Draft Proposed SENATE Rule Clean</p>
<p>SENATE Rule 71 (1) No member, on any account, shall refrain from voting unless excused by the President. A member voting "with reservations" shall be counted as a favorable vote.</p>	<p>SENATE Rule 71 (1) No member, on any account, shall refrain from voting unless excused by <u>the presiding officer</u> (the President <u>or a committee chair, as the case may be</u>). A member voting "with reservations" shall be</p>	<p>SENATE Rule 71 (1) No member, on any account, shall refrain from voting unless excused by the presiding officer (the President or a committee chair, as the case may be). A member voting "with reservations" shall be counted as a</p>

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<p>A member may vote "Kanalua" the first time the member's name is called by the Clerk on any vote, but if the member votes "Kanalua" on the next call of the member's name, the member's vote shall be recorded as "Aye."</p> <p>(2) The President may excuse a member who has a monetary interest in the question, or whose right to a seat in the Senate will be affected by the question, or whose official conduct is involved in the question. If a member thinks there may be a personal interest in the question, the member shall rise and disclose the interest to the President. The President then shall rule whether the member has a conflict of interest. If so, the member shall be excused from voting.</p> <p>(3) Whenever the Ayes and Noes are called, no one, without unanimous consent, shall be permitted to explain a vote.</p> <p>(4) After the announcement by the President of the result, no one shall be allowed to vote or to change</p>	<p>counted as a favorable vote. A member may vote "Kanalua" the first time the member's name is called by the Clerk on any vote, but if the member votes "Kanalua" on the next call of the member's name, the member's vote shall be recorded as "Aye."</p> <p>(2) The <u>presiding officer</u> <del>President shall may</del> excuse a member who has a <u>conflict of monetary</u> interest in the question, or whose right to a seat in the Senate will be affected by the question, or whose official conduct is involved in the question. If a member thinks there may be a personal interest in the question, <u>then prior to voting</u>, the member shall rise and disclose the interest to the <u>presiding officer</u> <del>President</del>. <u>Alternatively, any member may state their reasonable belief that another member may have such an interest and provide information supporting this belief.</u> The <del>President</del> <u>presiding officer</u> then shall rule whether the member has a conflict of interest. If so, the member shall be excused from voting.</p> <p><u>For the purposes of this rule, a "conflict of interest" has the same meaning as defined in Rule 85.</u></p>	<p>favorable vote. A member may vote "Kanalua" the first time the member's name is called by the Clerk on any vote, but if the member votes "Kanalua" on the next call of the member's name, the member's vote shall be recorded as "Aye."</p> <p>(2) The presiding officer shall excuse a member who has a conflict of interest in the question, or whose right to a seat in the Senate will be affected by the question, or whose official conduct is involved in the question. If a member thinks he or she may have a such an interest in the question, then prior to voting, the member shall rise and disclose the interest to the presiding officer. Alternatively, any member may state their reasonable belief that another member may have such an interest and provide information supporting this belief. The presiding officer then shall rule whether the member has a conflict of interest. If so, the member shall be excused from voting.</p> <p>For the purposes of this rule, a "conflict of interest" has the same meaning as defined in Rule 85.</p> <p>If the presiding officer finds no conflict of interest, or it is uncertain whether a member has a conflict of interest in the question, there</p>
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<p>a vote.</p>	<p><u>If the presiding officer finds no conflict of interest, or it is uncertain whether a member has a conflict of interest in the question, there shall be a determination in accordance with Rule 85(2).</u></p> <p><u>If quorum required for any vote cannot be achieved due to members recusing themselves based on a conflict of interest, each recused member shall nonetheless be required to vote; provided that prior to, or within one week of, the vote, the member shall present to the voting body a detailed written explanation of the specific facts describing the member’s conflict of interest, which shall be recorded in the Journal of the Senate and posted on the Senate website until the next biennium.</u></p> <p>(3) Whenever the Ayes and Noes are called, no one, without unanimous consent, shall be permitted to explain a vote.</p> <p>(4) After the announcement by the President of the result, no one shall be allowed to vote or to change a vote.</p>	<p>shall be a determination in accordance with Rule 85(2).</p> <p>If quorum required for any vote cannot be achieved due to members recusing themselves based on a conflict of interest, each recused member shall nonetheless be required to vote; provided that prior to, or within one week of, the vote, the member shall present to the voting body a detailed written explanation of the specific facts describing the member’s conflict of interest, which shall be recorded in the Journal of the Senate and posted on the Senate website until the next biennium.</p> <p>(3) Whenever the Ayes and Noes are called, no one, without unanimous consent, shall be permitted to explain a vote.</p> <p>(4) After the announcement by the President of the result, no one shall be allowed to vote or to change a vote.</p>
<p>Current SENATE Rule <b>Standards of Conduct</b></p>	<p>Draft Proposed SENATE Rule Redlined Against Current</p>	<p>Draft Proposed SENATE Rule Clean</p>



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<p>SENATE Rule 81</p> <p>(1) Members should conduct themselves in a respectful manner befitting the office with which they as elected officials have been entrusted, respecting and complying with the law and acting at all times in a manner that promotes public confidence in the integrity of the Senate.</p> <p>(2) Members should not lend the prestige of public office to advance the private interests of themselves or others; nor should members convey or permit others to convey the impression that they are in a special position to unduly influence pending public business before them.</p> <p>(3) Members should treat their fellow Senate members, staff, and the general public with respect and courtesy, regardless of political or religious beliefs, race, ethnicity, sex, sexual orientation, or physical disability.</p> <p>(4) The legislative duties of members</p>	<p>SENATE Rule 81 <i>[Change only by inserting new section G in section (4) and relettering following sections:]</i></p> <p><u>(G) Manage their personal interests and obligations so as to minimize the number of votes in which they are in, or may reasonably be perceived to be in, potential conflict; Refrain from using, or permitting the use of, the privileges and prestige of their public office to derive undue personal, professional, or financial benefits for themselves, members of their families, or others with whom they maintain personal, business, or professional relationships.</u></p> <p><del>(G)</del>(H) Refrain from using, or permitting the use of, the privileges and prestige of their public office to derive undue personal, professional, or financial benefits for themselves, members of their families, or others with whom they maintain personal, business, or professional relationships.</p> <p><del>(H)</del>(I) Refrain from engaging in financial and business dealings that involve them in frequent transactions, or continuing business or professional</p>	<p>SENATE Rule 81 <i>[Change only by inserting new section G in section (4) and relettering following sections:]</i></p> <p><u>(G)</u> Manage their personal interests and obligations so as to minimize the number of votes in which they are in, or may reasonably be perceived to be in, potential conflict.</p> <p><del>(G)</del>(H) Refrain from using, or permitting the use of, the privileges and prestige of their public office to derive undue personal, professional, or financial benefits for themselves, members of their families, or others with whom they maintain personal, business, or professional relationships.</p> <p><del>(H)</del>(I) Refrain from engaging in financial and business dealings that involve them in frequent transactions, or continuing business or professional relationships, with those persons likely to derive benefits from public financial matters either pending or already deliberated and voted upon by the Senate, to the extent that such conduct may reasonably be perceived as personal exploitation of their public office.</p>
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<p>as prescribed by law and these Rules should take precedence over all of their other business or professional activities. Members should freely and willingly accept certain restrictions on their business activities and professional conduct that might be considered burdensome by an ordinary private citizen, and should perform the duties of elected office impartially and diligently. To the greatest extent reasonably possible, members should:</p> <ul style="list-style-type: none"><li>(A) Refrain from allowing family, social, business, or other relationships to unduly influence the member's legislative conduct or judgment.</li><li>(B) Refrain from showing bias or prejudice, including but not limited to bias or prejudice based on political or religious beliefs, race, ethnicity, sex, sexual orientation, or physical disability, in the performance of their official duties.</li><li>(C) Exercise patience, tolerance and courtesy to all those with</li></ul>	<p>relationships, with those persons likely to derive benefits from public financial matters either pending or already deliberated and voted upon by the Senate, to the extent that such conduct may reasonably be perceived as personal exploitation of their public office.</p>	
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<p>whom they deal with in an official capacity, and require staff and others subject to their direction and control to maintain similar standards of conduct, fidelity, and diligence inherent in public service.</p> <p>(D) Exercise the power of appointment impartially and on the basis of merit, refraining from making unnecessary appointments and approving compensation of appointees beyond the fair value of services rendered.</p> <p>(E) Afford to every person who wishes to participate in the legislative process the opportunity to be heard according to established procedures.</p> <p>(F) Consider at all times whether their conduct would create in reasonable minds the perception that their ability to carry out legislative responsibilities with integrity and independence is either questionable or impaired.</p>		
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<p>(G) Refrain from using, or permitting the use of, the privileges and prestige of their public office to derive undue personal, professional, or financial benefits for themselves, members of their families, or others with whom they maintain personal, business, or professional relationships.</p> <p>(H) Refrain from engaging in financial and business dealings that involve them in frequent transactions, or continuing business or professional relationships, with those persons likely to derive benefits from public financial matters either pending or already deliberated and voted upon by the Senate, to the extent that such conduct may reasonably be perceived as personal exploitation of their public office.</p>		
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