

JAN 22 2021

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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 state  
2 constitution requires the legislature to provide for the manner  
3 and procedure of removal by impeachment of the appointive  
4 officers. Further, article III, section 19, states that the  
5 governor, lieutenant governor, and any appointive officer for  
6 whose removal the consent of the senate is required, may be  
7 removed from office upon conviction of impeachment for such  
8 causes as may be provided by law.

9           The legislature finds that current law is absent the  
10 constitutionally required statutory provisions establishing the  
11 causes, manner, and procedure of removal of the governor,  
12 lieutenant governor, and appointive officers by impeachment.

13           The purpose of this Act is to fulfill the legislature's  
14 duty to enact laws to effectuate article III, section 19, and to  
15 provide for the manner and procedure of removal by impeachment  
16 of the governor, lieutenant governor, and any appointive officer  
17 for whose removal requires the consent of the senate.



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

4 "CHAPTER

5 IMPEACHMENT

6 PART I. IMPEACHMENT GENERALLY

7 § -1 Impeachment; causes for; conviction. (a) The  
8 governor, lieutenant governor, and any appointive officer for  
9 whose removal the consent of the senate is required shall be  
10 removed from office upon conviction of impeachment for the  
11 following causes:

12 (1) Treason, bribery, or other high crimes and  
13 misdemeanors;

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

15 (3) Moral turpitude.

16 (b) Two-thirds concurrence of the members of the senate  
17 shall be required for conviction of impeachment in accordance  
18 with article III, section 19, of the state constitution.

19 PART II. APPOINTIVE OFFICERS

20 § -11 Appointive officers; generally. The house of  
21 representatives shall have the sole power of impeachment of any



1 appointive officer for whose removal the consent of the senate  
2 is required, and the senate shall have the sole power to try  
3 such impeachments. When sitting for that purpose, the members  
4 of the senate shall be under oath or affirmation, and the chief  
5 justice shall preside.

6       **§ -12 Investigative committee.** The house of  
7 representatives shall have the power at any time to appoint a  
8 committee to investigate charges against any appointive officer  
9 subject to impeachment.

10       **§ -13 Disqualification.** An appointive officer impeached  
11 by the house of representatives shall be disqualified from  
12 performing any official duties until acquitted by the senate,  
13 and the governor may fill the office by appointment until  
14 completion of the trial.

15       **§ -14 Articles of impeachment.** Impeachment shall be  
16 instituted in the house of representatives by resolution, passed  
17 by a majority of the members, and conducted by managers elected  
18 by the house of representatives. The managers shall prepare  
19 articles of impeachment, present them at the bar of the senate,  
20 and prosecute them. The impeachment shall be heard before the  
21 senate, sitting as a court of impeachment.



1           §   -15   **Impeachment hearing; service on accused.** (a) The  
2 senate shall assign a day for hearing the impeachment and inform  
3 the house of representatives of the day of the hearing.

4           (b) The president of the senate shall cause a copy of the  
5 articles of impeachment, with a notice to appear and answer them  
6 at the time and place appointed, to be served on the accused no  
7 less than thirty days before the day fixed for the hearing. The  
8 service shall be made by the sergeant-at-arms of the senate upon  
9 the accused personally, or, if the accused cannot upon diligent  
10 inquiry be found within the State, the senate, upon proof of  
11 such fact, may order publication of the notice to be made in a  
12 manner it deems proper.

13          §   -16   **Court of impeachment; organization.** No later than  
14 ten days after the articles of impeachment have been presented  
15 to the senate, the senate shall organize as a court of  
16 impeachment and, for the purpose of conducting the proceedings  
17 of that court, may appoint a clerk, who may be the clerk of the  
18 senate. The clerk shall issue all process and keep a record of  
19 the proceedings of the court. The court also shall appoint a  
20 marshal, who shall be the sergeant-at-arms of the senate, and an  
21 assistant marshal. The senate, sitting as a court of



1 impeachment, may employ any legal, stenographic, clerical, and  
2 other assistance as is required and fix their compensation.

3       **§ -17 Witness fees; execution of process. (a)**

4 Witnesses shall receive the same compensation for travel and  
5 attendance, and the same exemptions in going, remaining, and  
6 returning, as witnesses in civil proceedings conducted in the  
7 courts.

8       (b) Officers executing the process and orders of the court  
9 of impeachment shall receive the fees allowed sheriffs for  
10 similar service in the courts.

11       **§ -18 Absence of senator from hearing.** The senate,  
12 while sitting as a court of impeachment, shall determine what  
13 accumulation of absences of a senator during the hearing shall  
14 exclude the senator from voting on the final decision.

15       **§ -19 Compensation of impeachment personnel. (a)** For  
16 the duration of the impeachment trial, the senators composing  
17 the court of impeachment and the managers representing the house  
18 of representatives shall be paid travel expenses and allowances  
19 provided by law for members of the legislature when convened in  
20 regular session.



1           (b) The managers shall be allowed the same compensation  
2 for the time required in preparing the proceedings for  
3 presentation to the court of impeachment together with their  
4 actual and necessary expenses; provided that these expenses  
5 shall include the personal or subsistence expenses of the  
6 managers. In addition, the managers, during the preparation of  
7 the proceedings and the trial, may employ legal, stenographic,  
8 clerical, and other assistance as is required and fix their  
9 compensation.

10           (c) The members, officers, employees of the court of  
11 impeachment, managers, and all employees of the managers, shall  
12 be paid on verified claims approved by the presiding justice of  
13 the court of impeachment and attested by its clerk.

14           (d) Court reporters employed by the court of impeachment  
15 may be paid the compensation provided by law for reporting  
16 proceedings before the courts and also shall receive from the  
17 party ordering a transcript of the proceedings, the compensation  
18 provided by law for the services.

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



1           **§ -20 Expenses of impeachment proceedings.** The expenses  
2 of impeachment proceedings, after the legislature has adjourned,  
3 shall be a charge upon the general fund of the State and shall  
4 be paid from any money in the general fund not otherwise  
5 appropriated upon verified claims, approved and attested as  
6 provided in section -18.

7           **§ -21 Vacancy in managers.** When a vacancy occurs in the  
8 managers selected by the house of representatives to try  
9 impeachment proceedings before the senate, and the house of  
10 representatives is not in session, the speaker or the presiding  
11 member, or if there is no presiding member, then the vice  
12 speaker of the house shall appoint a member of the house of  
13 representatives to fill the vacancy.

14           **§ -22 Appearance of accused; plea.** (a) If the accused  
15 does not appear, the court of impeachment, upon proof of service  
16 of the articles of impeachment or publication and upon motion or  
17 for cause shown, may assign another day for hearing the  
18 impeachment proceedings or may proceed to trial and judgment in  
19 the absence of the accused.

20           (b) The accused may object in writing to the sufficiency  
21 of the articles of impeachment within thirty days of having been



1 served the articles of impeachment or within thirty days of the  
2 last publication of the articles of impeachment pursuant to  
3 section -14, or the accused may answer the articles of  
4 impeachment by an oral plea of not guilty. The plea of not  
5 guilty shall be entered upon the journal and shall place in  
6 issue every material allegation of the articles of impeachment.

7 (c) If the objection to the sufficiency of the articles of  
8 impeachment is not sustained by a majority of the members of the  
9 court of impeachment who heard the argument, the accused shall  
10 be ordered to answer the articles of impeachment. If the  
11 accused then pleads guilty or refuses to plead, the court of  
12 impeachment shall render judgment of conviction against the  
13 accused. If the accused pleads not guilty, the court of  
14 impeachment shall try the impeachment at the time it appoints.

15 § -23 **Judgment.** If the accused is convicted, the court  
16 of impeachment, at the appointed time, shall pronounce judgment  
17 by resolution entered upon the journals of the court, which  
18 shall be the judgment of the senate. The judgment of conviction  
19 may provide that the accused be removed from office or that the  
20 accused be removed from office and disqualified to hold any



1 office of honor, trust, or profit under the constitution and  
2 laws of the State.

3 PART III. GOVERNOR AND LIEUTENANT GOVERNOR; LEGISLATIVE RULES

4 § -31 Procedures in lieu of rules. In the case of the  
5 governor and the lieutenant governor, until the house of  
6 representatives adopts rules for impeachment proceedings and the  
7 senate adopts rules for the trial proceedings, pursuant to  
8 article III, section 19, of the state constitution, the house of  
9 representatives and senate may apply the procedures of part II  
10 to those proceedings; provided that any impeached governor or  
11 lieutenant governor shall not be disqualified from performing  
12 official duties prior to conviction, notwithstanding section  
13 -12."

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

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INTRODUCED BY:



# S.B. NO. 217

**Report Title:**

Impeachment; Governor; Lieutenant Governor; Appointive Officers

**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.*

