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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI‘I

LEAGUE OF WOMEN VOTERS OF HAWAII,

Plaintiff,

v.

STATE OF HAWAI‘I,

Defendant.

Civil No. 1CCV-25-0001456
(Declaratory Judgment)

STATE OF HAWAII’S SUPPLEMENTAL MEMORANDUM IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT FILED OCTOBER 7, 2025 [DKT. 17]; DECLARATION OF LAUREN K. CHUN; EXHIBITS “16” – “18”; CERTIFICATE OF SERVICE

Hearing:
Judge: Hon. Jordon J. Kimura
Date: March 27, 2026
Time: 9:00 A.M.

Trial Date: None

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STATE OF HAWAII'S SUPPLEMENTAL MEMORANDUM IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT FILED OCTOBER 7, 2025 [DKT. 17]

The State of Hawaii's responses to the questions raised in the Court's February 6, 2026 Minute Order [Dkt. 47] are set forth below:

A. Provide any applicable authority addressing whether the germaneness standard applies at the time of bill introduction under the Hawai'i Constitution. If you are unable to find any authority, provide supporting authority for why this Court should or should not extend the germaneness standard to the time of bill introduction. If a party contends that the germaneness standard should apply at bill introduction, would all short form bills fail the standard? Please also address whether the germaneness standard articulated by the Hawai'i Supreme Court in League of Women Voters under Article III, Section 15 should be construed as limited to amendments made after introduction and first reading under Article III, Section 15, or whether its rationale supports some role at the bill introduction stage under Article III, Section 12. If a party contends that germaneness cannot apply at introduction, it should explain why the purposes identified in League (continuity of subject, public notice, and transparency) do not logically extend to the period between introduction and final passage.

Plaintiff's arguments regarding the introduction of S.B. 935 are based on its assumption that non-germane amendments after the bill introduction deadline are forbidden by the Constitution.[1] The Court should reject this reasoning. Such a rule would not just apply to short-form bills, but to *every single bill*. It would severely tie the Legislature's hands when serious issues are raised about a bill after introduction, when further consideration reveals that other methods are better suited to addressing a problem, or when unforeseen circumstances arise that necessitate substantial redrafting. Nothing in the constitutional history of Article III of the Hawai'i Constitution suggests that the framers intended to restrict the legislature's authority to amend bills as necessary, as long as the public receives sufficient notice and opportunity to review such amendments. Nor is the result required by *League of Women Voters of Honolulu v. State*, 150 Hawai'i 182, 499 P.3d 382 (2021). And declining to apply a "germaneness" standard to amendments for the purpose of the bill introduction deadline *is* logically consistent with applying that standard for the purpose of the three readings requirements. Plaintiff's "germaneness" test at

[1] To be clear, Plaintiff has not challenged the constitutionality of any amendments to S.B. 935. For the first time in its Reply, Plaintiff raised a new argument – that bills are also unconstitutional if non-germane amendments are added *after* they are introduced. Dkt. 43 at 6-8. However, Count II of Plaintiff's Complaint alleges only that S.B. 935 violated the bill introduction deadline because it was not a "bill" at the time it was introduced – it does not allege that any amendments were unconstitutional. Dkt. 1 at ¶¶24-28. Thus, the scope of the challenge before the Court is narrow – whether S.B. 935 was violative of the Constitution as introduced, not whether any unchallenged subsequent amendments were constitutional.

bill introduction makes little sense, as even under Plaintiff's own reading of the Constitution, non-germane amendments would still be allowed before the bill introduction deadline, and applying a germaneness standard at introduction would not prevent short-form bills in any event.

"[T]he Hawai'i Constitution must be construed with due regard to the intent of the framers and the people adopting it, and the fundamental principle in interpreting a constitutional provision is to give effect to that intent." *Id.* at 189, 499 P.3d at 389 (citation omitted). The Hawai'i Supreme Court recognized that the bill introduction deadline, the mid-session recess, the final printing requirement, and the three readings requirement are all intended to "ensure public participation in the legislative process[.]" *Id.* at 202, 499 P.3d at 402. But there is nothing in the constitutional history suggesting that the framers intended any of these procedural requirements to limit the Legislature's authority to substantially amend bills. Rather, the history of the various constitutional procedural requirements indicates that they were intended to promote public participation by giving the public sufficient opportunity to review bill amendments – not by proscribing the Legislature from making non-germane amendments altogether.

The three readings requirement "dates back to the 1894 Constitution of the Republic of Hawai'i" (*id.* at 195, 499 P.3d at 395) and was also included in Section 46 of the Organic Act of 1900. It was reworded by the 1950 Constitutional Convention into its present language. *League of Women Voters*, 150 Hawai'i at 195, 499 P.3d at 395. The Hawai'i Supreme Court summarized the purposes of the three readings requirement as follows: it "(1) provides the opportunity for full debate on proposed legislation; (2) ensures that members of each legislative house are familiar with a bill's contents and have time to give sufficient consideration to its effects; and (3) provides the public with notice and an opportunity to comment on proposed legislation." *Id.* at 196, 499 P.3d at 396. These purposes promote public participation and deliberate lawmaking by giving both legislators and the public sufficient time to review proposed legislation, not by restricting the authority to amend. In fact, the Hawai'i Supreme Court recognized that the ability to amend a bill "any number of times" is a benefit of the legislative process:

> This court has previously observed that "[t]he three-reading requirement not only provides the opportunity for full debate; it also ensures that each house of the legislature has given sufficient consideration to the effect of the bill." Taomae, 108 Hawai'i at 255, 118 P.3d at 1198. The framers at the 1950 Convention envisioned that, during the course of debate, a bill's "purposes[,] ... meaning, scope and probable effect" would be "fully examined[.]" 1 Proceedings of 1950, supra, at 184. **The framers**

> **considered the ability to amend a bill "any number of times after debate discloses its weaknesses, or opposition forces compromise to meet objections raised to its form or substance[ ]" one of the key benefits of the legislative process.** Id. Thus, the constitutional history of the three readings requirement demonstrates that the framers intended it to further the aim of a deliberative legislative process, wherein legislators would receive input from an informed public, debate a bill's merits and weaknesses, **and amend bills to address those uncovered weaknesses**.

Id. at 199, 499 P.3d at 399 (emphasis added).

Similarly, the Court stated that the purpose of the final printing requirement (adopted in 1968) "is to assure members of the legislature an opportunity to take **informed action** on the final contents of proposed legislation . . . The final printing requirement not only aids the legislator but also gives the **public additional time and opportunity** to inform itself of bills facing imminent passage." *Id.* at 196-97, 499 P.3d at 396-97 (brackets omitted; emphasis added) (quoting Stand. Comm. Rep. No. 46 in 1 Proceedings of the Constitutional Convention of Hawaii 1968, at 216 (1973)). "The final printing requirement was adopted to provide **additional notice** to legislators and the public in the face of increasingly complex legislation." *Id*. at 397, 499 P.3d at 397 (emphasis added). The mid-session recess was also added "'to provide both legislators and the public **an opportunity to review** during the recess all bills that have been introduced in both houses, and an opportunity for both legislators and constituents to communicate on matters' pending." *Id.* at 202, 499 P.3d at 402 (emphasis added) (quoting Stand. Comm. Rep. No. 46 in 1 Proceedings of the Constitutional Convention of Hawaii of 1978, at 603 (1980) ("1978 Proceedings, Vol. I")). Thus, the history behind these provisions shows that their intent was to allow additional time and opportunity to review bills, including amendments, but not to curtail the authority to amend. Indeed, as discussed, it was intended that additional time for public review and opportunity for debate would *facilitate* necessary amendments.

The history behind the bill introduction deadline is no different. The standing committee that proposed the language to the 1978 Constitutional Convention explained its purpose "is to allow the public the use of the mandatory 5-day recess to review every bill that will ever be introduced in that legislative session." Stand. Comm. Rep. No. 46 in 1978 Proceedings, Vol. I at 603 [Dkt. 17 at 112]. And in the committee of the whole debate on the committee's report, it was explained that the deadline provision "basically provides for a limitation, not necessarily in number but in time, of the bills to be introduced. In conjunction with the recess, this amendment should further aid the public in its attempts to actively follow and participate in the legislative process."

2 Proceedings of the Constitutional Convention of Hawaii of 1978 ("1978 Proceedings, Vol II"), at 278 (1980) [Dkt. 17 at 120]. Nothing in the discussions regarding the bill introduction deadline indicates that it was intended to act as a cut-off on amendments, rather than to allow the public sufficient time to review the bills as introduced. Further, as discussed in the State's moving papers, the bill introduction deadline was amended in 1984 to remove any restrictions on when the Legislature could set the bill introduction deadline. 1984 Sess. Laws. H.B. 1947-84 at 903-04 [Dkt. 17 at 122-23]. Nothing in the history of the 1984 amendment indicates that the bill introduction deadline was intended to preclude bill amendments. *See, e.g.*, H. Stand. Comm. Rep. No. 417-84, in 1984 House Journal, at 1031-32 [Dkt. 17 at 125-26]; S. Stand. Comm. Rep. No. 636-84, in 1984 Senate Journal, at 1332-33 [Dkt. 17 at 128-29] (discussing purpose to repeal the constitutional provision that establishes the deadline for introducing bills, allowing legislature to select an earlier deadline).

Notably, the constitutional history shows that the framers were aware that bills could be substantially amended so as to become entirely different than their forms as introduced. Yet nothing indicates that it was their intent to prohibit such amendments, rather than give legislators and the public sufficient time to *review* any possible amendments. For instance, in discussing the final printing requirement, one delegate in 1968 noted that "[t]he original intent of a bill having passed one house can be substantially changed in legislative conferences[,]" and to "correct this situation," rather than restricting amendments, the committee adopted the final printing requirement to ensure the final printed bill would be available for at least 24 hours before final passage. Comm. of the Whole Debates in 2 Proceedings of the Constitutional Convention of Hawaii of 1968, at 145 (1972) (attached hereto as Exh. "16"). And another delegate described a situation where:

> When the bill comes out of the committee, we send an elephant into the committee in the first instance. **The committee reports the bill entirely new in concept,** not the changing of one figure when appropriation of dollars are needed, **but a whole complete change** with the contents in which the bill was originally introduced may contain one page. That bill comes out either 14 or 10 pages, different than the original. The committee recommends that the bill pass third reading in its amended form. You may have intended to request consideration of the matter of the caring of elephants. This bill comes out with the caring of the elephants, dogs, pigeons and what not and then we are voting on third reading for the passage **of a completely new bill**....

Id. at 169 (emphasis added). Again, despite awareness of this possibility, the framers adopted the final printing requirement (on top of the existing three readings requirement) rather than adopt a requirement that would have precluded non-germane amendments altogether.

In fact, if the framers had intended to preclude non-germane amendments, they could have done so by adopting an "original purpose" provision like other states. *See, e.g.*, Ala. Const. art. IV, § 61 ("[N]o bill shall be so altered or amended on its passage through either house as to change its original purpose."); Ark. Const. art. V, § 21; Colo. Const. art. V, § 17; La. Const. art. III, § 15(C); Mich. Const. art. IV, § 24; Mo. Const. art. III, § 21; Mont. Const. art. V, § 11(1); N.M. Const. art. IV, § 15; Pa. Const. art. III, § 1; Tex. Const. art. III, § 30; Wash. Const. art II, § 38; Wyo. Const. art. III, § 20.[2] Moreover, during the 1978 Constitutional Convention, the Committee on Legislature considered, but did not recommend, several proposals that would have put limits on the legislature's ability to make non-germane amendments, specifically by prohibiting conference committees from adding new or unrelated subject matter to bills. *See* Delegate Proposal 71, in 1978 Proceedings, Vol. I, at 846; Delegate Proposal 130, *id.*, at 859; Delegate Proposal 720, *id.* at 953 (all attached hereto as Exh. "17") (all recommending limitations on conference committees' power to amend bills), and Stand. Comm. Rep. No. 46, *id.* at 599-600 [Dkt. 17 at 108] (stating that the foregoing proposals were referred to the committee for consideration). Thus, if the Court were to hold that non-germane amendments cannot be made after the bill introduction deadline, it would be *adding* a provision to the Constitution that the framers could have chosen to adopt, but did not.

The decision in *League of Women Voters* did not conclude that the framers intended to preclude non-germane amendments. It in fact *supports* the conclusion that non-germane amendments after introduction are *permitted*, and the public's ability to participate in the legislative process is adequately preserved, when the non-germane amendment receives the requisite three readings. As noted, the Court did not state that the purpose of any of the various constitutional procedural requirements was to limit the Legislature's authority to amend bills. Indeed, the Court found that one of the purposes of the three readings requirement was to aid legislators in amending bills to address their weaknesses, and that the ability to amend a bill "any number of times" was one of the "key benefits of the legislative process." *Id.* at 199, 499 P.3d at

[2] The framers of the 1950 Constitution stated that they studied the provisions of several other state constitutions relating to the legislature. Stand. Comm. Rep. No. 92 in 1 Proceedings of the Constitutional Convention of Hawaii 1950, at 249 (1960).

399. The Court further recognized that "refinement and modification of the text of a proposal is **the natural and desirable** product of deliberation." *Id.* at 195, n.20, 499 P.3d at 395 n.20 (quoting 1 Sutherland on Statutes and Statutory Construction § 10:4) (emphasis added).

To be sure, the Court's opinion identifies concerns with non-germane amendments. *See id.* at 202 n.32, 499 P.3d at 402 n.32, *id.* at 203, 499 P.3d at 403. But even so, the Court did not adopt a rule precluding such amendments; it instead held that when a non-germane amendment is made, "the three readings [must] begin anew[.]" *Id.* at 205, 207, 499 P.3d at 405, 407. This rule assumes that non-germane amendments after the bill introduction deadline are allowed, otherwise clarifying that non-germane amendments merely restart the three readings, rather than kill a bill entirely once the deadline passes, would be completely unnecessary.

Indeed, the amendments at issue in *League of Women Voters* occurred well after the bill introduction deadline. *Id.* at 187, 499 P.3d at 387 (noting that the contents of the bill were replaced on March 21, 2018).[3] The Court determined that the amendments were not germane to the original purpose of the bill. *Id.* at 206, 499 P.3d at 406. If the Court's opinion was that any non-germane amendment after the bill introduction deadline renders the bill unconstitutional, its analysis would have ended there. Instead, the Court held that the non-germane amendment "requires that the three readings **restart**" and found that, because the amended bill "only received one reading in the Senate before it passed," it was unconstitutional. *Id.* (emphasis added). If the Court's opinion was that any non-germane amendment cannot be cured by having the amended bill read three times in each house, this analysis would have been unnecessary. The *League of Women Voters* opinion thus shows that despite the Court's concerns with non-germane amendments, it considered the requirement that three readings begin anew once a non-germane amendment is made sufficient to protect public participation in the legislative process.

This demonstrates why the logic behind applying a germaneness standard to the three readings requirement does not carry over to the bill introduction deadline. Allowing non-germane amendments after the bill introduction deadline as long as the amended bill receives the requisite three readings in each house is sufficient to preserve the intent of the Constitution to give the legislators and the public adequate notice and time to review proposed amendments, while also preserving "the ability to amend a bill 'any number of times'" following informed public debate.

[3] The bill introduction deadline for the 2018 regular session was January 24, 2018. 2018 Senate Journal, at 110; 2018 House Journal, at 80.

Id. at 199, 499 P.3d at 399. Completely forbidding non-germane amendments after the bill introduction deadline goes beyond the demonstrated intent of the framers and instead restricts the Legislature's otherwise plenary authority to amend bills as it deems necessary. And, as discussed, it would render the ultimate holding of *League of Women Voters* – that non-germane amendments merely restart the three readings requirement – superfluous.

It must also be emphasized that "every enactment of the legislature is presumptively constitutional, and a party challenging the statute has the burden of showing unconstitutionality beyond a reasonable doubt." *Schwab v. Ariyoshi*, 58 Haw. 25, 31, 564 P.2d 135, 139 (1977). Here, where the constitutional history is entirely devoid of any indication that the constitutional framers intended to impose any limitation on the legislature's *authority* to amend bills – rather than simply ensure that the public has sufficient opportunity to review amendments – the Court cannot conclude, beyond doubt, that non-germane amendments after the bill introduction deadline automatically render a statute unconstitutional.

In any event, even if non-germane amendments are prohibited after the bill introduction deadline, it does not follow that a germaneness test should be applied at the time the bill is *introduced*. Even under Plaintiff's interpretation of the Constitution, non-germane amendments would still be allowed any time before the bill introduction deadline. Thus, even under Plaintiff's interpretation of the Constitution, it is only necessary to apply a germaneness test if a bill is amended after the bill introduction deadline. And the germaneness test would be applied to the *amendment* to see if it is germane to the purposes of the original bill. There is simply no logical reason to look at the bill in isolation at the time it is introduced and attempt to guess whether it could be germane to some hypothetical future amendment.

Finally, even if non-germane amendments are precluded after the bill introduction deadline, and even if the germaneness standard could possibly be applied to free-floating bills without reference to an amendment, short-form bills could still be used. For instance, assume that S.B. 935 was entitled "Relating to Government Retirement Benefits" and its content specified that it would amend HRS Title 7 – Public Officers and Employees, in some way relating to employee retirement benefits. Such a bill, even though a short-form, would likely meet even Plaintiff's asserted requirements for a sufficient title and substance, and would be germane to the eventual amendments to S.B. 935 that resulted in Act 290. Thus, even if the Court were to agree with Plaintiff's arguments, it could not rule that all short form bills are necessarily unconstitutional.

B. Can germaneness supply a judicially manageable limiting principle for distinguishing: (a) a permissible short-form bill that, despite its brevity, still discloses a subject to which subsequent, additional detail can be germane, from (b) an impermissible shell so empty that no meaningful subject is disclosed and germaneness cannot operate? If so, what minimum level of subject-matter disclosure is necessary at introduction for germaneness to function (e.g., identification of a chapter or topic; identification of a class of affected actors)?

As an initial matter, for the reasons discussed above, the State disagrees with the premise of this question as it appears to assume that non-germane amendments after the bill introduction deadline are prohibited.

In any case, regardless of whether non-germane amendments after the deadline kill a bill entirely or merely restart the three readings requirement, it is illogical to apply the germaneness standard to a bill as introduced, standing alone. Under either scenario, the application of either the bill introduction deadline or the three readings requirement is only triggered if there is an amendment to the bill. At that point, the germaneness standard may be applied to determine whether the amendment is germane to the original bill. There is simply no reason why a determination needs to be made at the time a bill is introduced but before it is amended whether it could possibly be germane to any conceivable hypothetical amendment.

The plain meaning of "germane" supports this position. The term means "akin, closely allied," or "united by the common tie of blood or marriage." *League of Women Voters*, 150 Hawai‘i at 200, 499 P.3d at 400 (internal citations and brackets omitted) (quoting *Territory v. Kua*, 22 Haw. 307, 313 (1914)). It is impossible to conclude that one thing standing by itself is or is not akin to something else without even knowing what that something else is.

But even if it were necessary to determine whether a bill, at the time it is introduced, could possibly be germane to a hypothetical future amendment (even before any such amendment is made) the only way a court could say for certain that no possible amendment to a bill could ever be germane would be if the bill is totally devoid of content. That is because even a bill with a broad title and scope could be germane to future amendments that encompass that same breadth. For instance, as Plaintiff appeared to acknowledge during the hearing, the title "Relating to Government" could be germane to provisions that would widely affect all branches of government. Hypothetically, such provisions would thus be germane to the body of S.B. 935, which states that it will amend the HRS to effect the purpose of its title. Because S.B. 935 as it was introduced could be germane to some hypothetical future amendments, it would thus meet even Plaintiff's conception of a "germane" bill.

C. Does the existence of a germaneness test grounded in constitutional text and history (as recognized in League) undercut the State's argument that there are "no judicially discoverable and manageable standards" for enforcing Article III, Section 12 as it relates to the definition, form, or qualifications of a bill. If not, why can that test not be adapted or used by analogy in the Section 12 context? Conversely, if the State maintains that Count II presents a political question, it should explain why germaneness is sufficiently manageable for Section 15 but not for any aspect of Section 12.

As discussed above, using germaneness as a test to determine whether a bill, as introduced, could possibly be germane to some hypothetical amendment is simply not a useful standard. Even under Plaintiff's interpretation of the Constitution, it only becomes necessary to determine "germaneness" when a bill is subsequently amended and there is something to compare with the original bill. And the literal definition of "germane" presupposes the existence of at least two things that can be compared to each other.

In any case, the fact that germaneness can be used to determine whether an amendment restarts the three readings requirement under art. III, § 15 does not mean that germaneness is an appropriate standard to apply to amendments made after the bill introduction deadline. In determining whether "judicially discoverable and manageable standards" exist to measure compliance with a constitutional mandate, courts look to the purpose of the mandate and the intent of the constitutional framers. *Nelson v. Hawaiian Homes Comm'n*, 127 Hawai'i 185, 203, 205, 277 P.3d 279, 297, 299 (2012) (finding that the 1978 Constitutional Convention history provided a judicially discoverable and manageable standard to determine whether funding was sufficient for administrative and operating expenses but not for other constitutionally mandated purposes). In *League of Women Voters*, the Court adopted the germaneness standard to measure compliance with the three readings requirement because it would "effectuate both the plain language of the three readings requirement and the purposes for which it was adopted." 150 Hawai'i at 200, 499 P.3d at 400.

Here, applying a germaneness standard to void any non-germane amendments after the bill introduction deadline, even when such amendments receive the necessary three readings, goes beyond merely ensuring that the public has sufficient notice and time to review the amendments. Nothing in the constitutional history of the bill introduction deadline indicates that it was intended to abrogate the legislature's authority to amend bills to any extent as long as the public has notice and time to review such amendments. Thus, while constitutional history and intent supports the application of a germaneness standard to the three readings requirement, it does not support its

application to the bill introduction deadline. The situation is similar to *Nelson*, where the Court found that while the records of the 1978 Constitutional Convention showed that the delegates considered $1.3 to $1.6 million "sufficient sums" for administrative and operating expenses, they shed no light on what the delegates considered to be "sufficient sums" for any other purpose identified in art. XII, § 1. 127 Hawai'i at 203, 205, 277 P.3d at 297, 299. Likewise here, the Court should decline to adopt a rule that would prohibit all non-germane amendments after the bill introduction deadline where there is no evidence that is what the delegates intended.

Such a rule is also unnecessary to preserve the purpose of the bill introduction deadline. As discussed in the State's Reply, the deadline puts a cap on the number of bills that the public will have to track during the course of the legislative session. Dkt. 45 at 9. Because bill titles are not changed after introduction, and because all provisions in a bill must be germane to their title, the introduction deadline also ensures that the general subject of the bill cannot differ from what is indicated in its title. The bill introduction deadline also gives the public a chance to familiarize itself with all newly introduced legislation and their general purposes and provide testimony on those bills *as introduced*. Short-form bills are consistent with these purposes. They are not secret vehicles – they make no attempt to hide that they are placeholders for long-form bills, should the need arise. Reading a short-form bill, as introduced, gives the public notice of its general subject, but, just like any other bill, the public is also on notice that it can be substantially amended throughout the session. The public is thus on notice that if it has any interest in the general subject indicated by the title of the short-form bill, it should continue to monitor its progress.

The bill introduction deadline by itself, however, does not ensure that the public has sufficient notice of subsequent bill *amendments*, rather than the content and subject of bills *as introduced*. The subject-in-title, final printing, and three readings requirements play that role, ensuring that after a bill is introduced, the public is given sufficient notice and time to review subsequent amendments. *League of Women Voters*, 150 Hawai'i at 203, 499 P.3d at 403 (the mid-session recess, bill introduction deadline, final printing, and three readings are all interdependent). These interconnected requirements, the Court held, "depend upon a meaningful interpretation of the three readings requirement" to fulfill their purposes. *Id.* "Accordingly, we conclude that a **meaningful interpretation** of the constitutional three readings provision requires that **the three readings begin anew after a non-germane amendment changes the object or subject of a bill so that it is no longer related to the original bill as introduced.**" *Id.* at 205, 499 P.3d at 405

(emphasis added). The Court thus considered this interpretation of the three readings requirement sufficient to preserve the purpose of the bill introduction deadline; if it were otherwise, the Court's holding would be ineffective.

Moreover, as discussed in the State's moving papers and in further detail below, the three readings requirement is further distinguishable from the bill introduction deadline because the administration of the deadline is dedicated by the Constitution solely to the Legislature itself. Haw. Const. art. III, § 12 (providing that "[e]ach house shall . . . determine the rules of its proceedings," and "[b]y rule of its proceedings, applicable to both houses, each house shall provide for the date by which all bills to be considered in a regular session shall be introduced."). The Court in *League of Women Voters* recognized that while the Constitution "empowers the Legislature to adopt its own rules of procedure," art. III, § 15 "contain[s] no similar language vesting the Legislature with the responsibility to judge its own compliance with the constitutional requirements for the legislative process." 150 Hawai'i at 193, 499 P.3d at 393. This further demonstrates why the germaneness standard is a "judicially discoverable and manageable standard" for one provision but not the other.

Finally, while *League of Women Voters* was based on an interpretation of what the plain language of art. III, § 15 required to effectuate three readings, *id.* at 194, 499 P.3d at 394 (applying canons of constitutional interpretation to find that "the words in section 15 are clear and unambiguous"), a prohibition against non-germane amendments under art. III, § 12 would go beyond that provision's plain language, which only directs that the Legislature select a bill introduction deadline via its procedural rules. Holding that the bill introduction deadline not only precludes the introduction of bills but also certain *amendments* after the deadline is the equivalent of adding an original purpose provision to the Constitution – a provision the framers could have, but chose not to, add themselves. Thus, unlike in *League of Women Voters*, applying a germaneness test to the bill introduction deadline necessarily requires a policy determination of a kind for nonjudicial discretion.

For these reasons, while applying the germaneness standard to the three readings requirement did not run afoul of the political question doctrine in *League of Women Voters*, the same reasoning does not lead to the conclusion that the germaneness standard can also be applied to the bill introduction deadline.

D. Related to the parties' arguments Nelson v. Hawaiian Homes Comm'n and its reliance on the six-factor Baker v. Carr test, on the one hand, and League of Women Voters of Honolulu v. State, on the other hand:

1. Can a party articulate a principled way to distinguish between (a) enforcing constitutional procedural requirements (e.g., three readings; bill introduction deadline) and (b) policing internal rule compliance (other deadlines, content definitions)?

2. Identify and explain the precise point at which, in your party's view, a court crosses from the former into the latter.

The State respectfully disagrees with the premise of this question to the extent it appears to assume that enforcing constitutional requirements is always justiciable, or that a question is *only* non-justiciable if it involves policing internal rule compliance. Whether or not a particular case presents a political question does not depend on where the case falls on a spectrum between these two possibilities. Rather, as both the Hawai‘i Supreme Court and the U.S. Supreme Court recognize, courts must engage in a case-by-case analysis to determine whether any of the *Baker* factors exist:

> Arguably, the political question doctrine is "the most amorphous aspect of justiciability." Id. (internal quotation marks and citation omitted). As the Supreme Court of the United States observed,
>
> > Deciding whether a matter has in any measure been committed by the Constitution to another branch of government, or whether the action of that branch exceeds whatever authority has been committed, is itself a delicate exercise in constitutional interpretation, and is a responsibility of [the] Court as ultimate interpreter of the Constitution.
>
> Baker v. Carr, 369 U.S. 186, 211, 82 S.Ct. 691, 7 L.Ed.2d 663 (1962).

League of Women Voters, 150 Hawai‘i at 192, 499 P.3d at 392. Hawai‘i has adopted the six factors identified in *Baker v. Carr* to determine whether a political question exists:

> [(1)] a textually demonstrable constitutional commitment of the issue to a coordinate political department; or [(2)] a lack of judicially discoverable and manageable standards for resolving it; or [(3)] the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or [(4)] the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or [(5)] an unusual need for unquestioning adherence to a political decision already made; or [(6)] the potentiality of embarrassment from multifarious pronouncements by various departments on one question.

Id. (quoting *Baker*, 369 U.S. at 217). The presence of *any* of the factors is sufficient to render a case non-justiciable. *Id.* ("Unless one of these formulations is inextricable from the case at bar, there should be no dismissal for non-justiciability[.]") (quoting *Baker*, 369 U.S. at 217); *Salera v. Caldwell*, 137 Hawai‘i 409, 422, 375 P.3d 188, 201 (2016) ("Under the *Baker* test, a case involves a non-justiciable question **if any** of the following circumstances applies[.]") (emphasis added); *Lee v. Garland*, 120 F.4th 880, 889 (D.C. Cir. 2024) ("To find a political question, we need only conclude that one of these factors is present.") (internal quotation marks and citation omitted); *Republic of Marshall Islands v. United States*, 865 F.3d 1187, 1200 (9th Cir. 2017) ("[T]o find a political question, we need only conclude that one factor is present, not all.") (internal quotation marks and citation omitted).

In *League of Women Voters*, while recognizing that "[t]his court has consistently rejected the argument that alleged violations of constitutional mandates concerning the legislative process are nonjusticiable political questions[,]" 150 Hawai‘i at 192, 499 P.3d at 392, the Court still applied the *Baker* test to the constitutional question at issue. *Id.* at 193, 499 P.3d at 393. The case thus does not stand for the proposition that every allegation that a constitutional mandate has been violated is justiciable. Indeed, the *Nelson* case disproves that proposition. In *Nelson* the Legislature was alleged to have violated a constitutional mandate – there, the requirement in art. XII, § 1 to make "sufficient sums" available for four specified purposes. 127 Hawai‘i at 189, 277 P.3d at 283. While recognizing that "textual interpretation, particularly constitutional interpretation, is generally judicial fare[,]" *id.* at 197, 277 P.3d at 291, the Court held that "a court is to interpret constitutional questions **as long as there do not exist uncertainties surrounding the subject matter that have been clearly committed to another branch of government to resolve.**" *Id.* (emphasis added). Thus, even though the Constitution clearly mandated that the legislature provide "sufficient sums," the Court, applying the *Baker* factors, found that a determination of what constituted "sufficient sums" constituted a political question because the text and history of art. XII, § 1 did not provide "'judicially discoverable and manageable standards' for determining 'sufficient sums' for these three purposes without 'initial policy determination[s] of a kind clearly for nonjudicial discretion.'" *Id.* at 205, 277 P.3d at 299 (citation omitted).

Thus, whether a plaintiff is asking the Court to enforce a constitutional requirement does not determine whether there is a political question – determination of the constitutional question

is non-justiciable if any of the six *Baker* factors is present. Unlike the first *League of Women Voters* case, at least four of the factors are present here.

A textually demonstrable constitutional commitment to the Legislature. Art. III, § 12 of the Hawai‘i Constitution states that "[e]ach house shall be the judge of the elections [and] returns and qualifications of its own members[,]" and "[e]ach house shall choose its own officers, determine the rules of its proceedings and keep a journal." Based on this language, the Court has found that the qualifications of the Legislature's own members and determining whether its own rules have been violated are matters textually constitutionally committed to the Legislature. *Hussey v. Say*, 139 Hawai‘i 181, 188, 384 P.3d 1282, 1289 (2016); *Schwab*, 58 Haw. at 37-39, 564 P.2d at 142-44. In *League of Women Voters*, however, the Court found that "sections 14 and 15 [of art. III] contain no similar language vesting the Legislature with the responsibility to judge its own compliance with the constitutional requirements for the legislative process" in those provisions. 150 Hawai‘i at 193, 499 P.3d at 393. That is not the case for art. III, § 12. Art. III, § 12's language regarding the bill introduction deadline is not just similar, but **substantially the same** as the language that the Court in *Hussey* and *Schwab* held demonstrated a textually demonstrable constitutional commitment to the Legislature to determine the subjects at issue: "By rule of its proceedings, applicable to both houses, each house shall provide for the date by which all bills to be considered in a regular session shall be introduced." Haw. Const. art. III, § 12. In *Schwab*, regarding the language in art. III, § 12 that "requires each house of the legislature to determine the rules of its proceedings," 58 Haw. at 37, 564 P.2d at 142, the Court found "the alleged violations of its own legislative rules remain the province of the legislature itself." *Id.* at 39, 564 P.2d at 144. Similarly, where the very same constitutional section requires the Legislature to include a bill introduction deadline in the very same rules, determining whether the deadline has been violated, just like any other of its adopted rules, should correspondingly "remain the province of the legislature itself." *Id*.

Indeed, constitutional history shows that when the Constitution was amended in 1984 to remove any restrictions on when the deadline should be, the intent was to give the Legislature the same authority in selecting the deadline as it has to determine its own rules and select its own officers. H.B. 1947-84 placed the amendment of art. III, § 12 on the ballot. In the Senate, the standing committee on judiciary prepared a report on the purpose of the bill and recommended

that it pass. Stand. Comm. Rep. No. 636-84, in 1984 Senate Journal at 1332-33 [Dkt. 17 at 128-29]. In floor debate on third reading, the chairman of that committee, Senator Chang,[4] clarified:

> By permitting the establishment of this particular item in the legislative timetable, **it would be consistent with the remaining Section XII or Article 3, whereby, each house chooses its own officers, determines the rules of its proceedings and keeps a journal.** We might note, Mr. President, that there is no constitutional provision that relates to the date of the first crossover or that of the second crossover or the date by which substantive resolutions shall be introduced. All of these items are crucial to the faith of every proposition presented to both bodies.
>
> **This particular proposal merely permits the Legislature to establish a timetable that is appropriate to the conditions that it must deal with in its proceedings each year** and I believe that it is a proposition well worth considering and will enhance the effectiveness of this body.

1984 Senate Journal at 775 (emphasis added) (attached hereto as Exh. "18"). Thus, the intent was to give the Legislature the same authority over the bill introduction deadline as it has over any of its internal rules, including the selection of any other internal deadlines.

That there is a demonstrable textual commitment in art. III, § 12 authorizing the Legislature to determine the bill introduction deadline, like its authority to determine its own rules and qualifications of its members, is just one of principled distinctions between the bill introduction deadline and the three readings requirement.

Lack of judicially discoverable and manageable standards. Courts look to the plain language of a law and its history to determine whether "judicially discoverable and manageable standards" exist to measure compliance. *Nelson*, 127 Hawai‘i at 205, 277 P.3d at 299 (finding that nothing in the plain language or constitutional convention history of art. XII, § 1 indicated what the framers considered "sufficient sums" for three of the four enumerated purposes); *see also Trustees of the Office of Hawaiian Affairs v. Yamasaki*, 69 Haw. 154, 173, 737 P.2d 446, 457 (1987) (despite seemingly clear language of HRS § 10-13.5 relating to 20 per cent of funds derived from the public land trust, legislative history showed that the legislature considered the boundaries of the trust to be undetermined and left for future decisionmakers). As argued in the State's Motion, to the extent that Plaintiff argues that S.B. 935 violated the bill introduction deadline because it was not a "bill" as introduced, nothing in the plain text or history of art. III, § 12 indicates that the framers contemplated any standard for when a legislative proposal has sufficient content to be

[4] *See* Exh. "18" at 2 (listing Sen. Anthony K. U. Chang as Chairman of the standing committee on judiciary).

considered a "bill," leaving the decision to the Legislature itself, as the master of its rules and bill introduction deadline. Dkt. 17 at 18-19.

The result is no different to the extent Plaintiff now argues that the germaneness test adopted in *League of Women Voters* should also be applied to determine compliance with the bill introduction deadline. In *League of Women Voters*, just as in *Nelson*, the Court looked to plain language and constitutional history to determine whether they supplied a standard to judge compliance with the three readings requirement. 150 Hawai'i at 194-95, 499 P.3d at 394-95 ("Accordingly, we consider the purpose of the three readings requirement in order to effectuate the intent of the framers and the people."). It found that the germaneness standard was applicable in that case because it would "effectuate both the plain language of the three readings requirement and the purposes for which it was adopted." *Id.* at 200, 499 P.3d at 400. However, as discussed above, applying the germaneness standard to preclude all non-germane amendments after the bill introduction deadline is not necessary to effectuate the purpose of the deadline. Ensuring that the three readings begin anew after any non-germane amendments, which is all that the Court in *League of Women Voters* required, is sufficient to provide legislators and the public with notice and time to review and comment on any such amendments. There is no evidence that the bill introduction deadline was intended to have the drastic result of precluding all non-germane amendments.

Thus, this case is far closer to *Nelson* than to *League of Women Voters*. In *Nelson*, although the Court found that the constitutional framers identified a standard for "sufficient sums" for one constitutional purpose, there was no similar history indicating what the framers would have considered "sufficient sums" for the remaining purposes identified in art. XII, § 1. 127 Hawai'i at 205, 277 P.3d at 299. Here too, while constitutional history might support applying the germaneness test to the three readings requirement, there is nothing indicating that the framers intended it to be applied to the bill introduction deadline.

The necessity of a policy determination inappropriate for judicial discretion. In *League of Women Voters*, because the Court found that it was required to apply the germaneness test to effectuate the intent of the framers, it did not need to make its own policy determinations. 150 Hawai'i at 205, 499 P.3d at 405. Here, however, "requir[ing] that the three readings begin anew after a non-germane amendment" is already sufficient to "effectuate the[] stated purposes" of the bill introduction deadline. *Id.* at 203, 205, 499 P.3d at 403, 405. And as also discussed,

constitutional history does not indicate that the intent of the bill introduction deadline was to preclude non-germane amendments altogether. Thus, if the Court were to determine that non-germane amendments should be forbidden after the deadline, it would be doing so not out of necessity to further clear constitutional intent, but based on its own subjective policy determination of what is necessary to promote public participation while balancing the legislature's ability to make effective laws. This kind of determination constitutes a political question. *Nelson*, 127 Hawai'i at 205, 277 P.3d at 299 (without judicially discoverable standards rooted in constitutional history, determining "sufficient sums" would require "initial policy determination[s] of a kind clearly for nonjudicial discretion.") (internal quotation marks and citation omitted).

To be clear, a non-germane amendment prohibition would apply to every single bill, not just short-form bills. While Plaintiff might argue that such a prohibition would promote public participation, it could also have the opposite effect by limiting the Legislature's ability to amend bills in response to public input. And it would certainly have the effect of limiting the Legislature's ability to respond to unforeseen circumstances, to the clear detriment of the public at large. For the Court to impose such a requirement in the absence of clear constitutional intent is the equivalent of inserting an original purpose requirement into the Constitution by judicial decree. Whether to impose such a requirement can properly be determined by the public themselves – either through a constitutional convention or ballot question – and is not part of the judiciary's role under the political question doctrine.[5]

Lack of respect for the Legislature. "As a general rule, the role of the court in supervising the activity of the legislature is confined to seeing that the actions of the legislature do not violate any constitutional provision." *Schwab*, 58 Haw. at 37, 564 P.2d at 143. Thus, courts "will not

[5] Hawai'i is not alone in utilizing short-form bills as legislative tools. A 1996 survey conducted by the National Conference of State Legislatures showed that Connecticut, Florida, Illinois, Indiana, Minnesota, Oklahoma, and Utah had similar policies. *See* Nat'l Conf. of State Legislatures, *Inside the Legislative Process*, at 3-3 (1996), https://documents.ncsl.org/wwwncsl/LegislativeStaff/ASLCS/ILP/96Tab3Pt1.pdf. Arkansas, California, and South Dakota also utilize short-form bills. *See* Arkansas House of Representatives, Rules of the House, Rule 39(c)(1) (2023) https://www.arkansashouse.org/assets/uploads/2023/02/20230203104203-94th-house-rule-book-for-webpdf.pdf; California State Senate, Glossary of Terms, https://www.senate.ca.gov/citizens-guide/glossary-terms#s (defining "Spot Bill"); South Dakota Legislature Legislative Research Council, Guide to Legislative Drafting, at 8, 114 (2025) (defining and giving an example of a "vehicle bill"), https://mylrc.sdlegislature.gov/api/Documents/Resource/289757.pdf?Year=2026.

interfere with the conduct of legislative affairs in absence of a constitutional mandate to do so, or unless the procedure or result constitutes a deprivation of constitutionally guaranteed rights." *Id.* Here, no constitutional mandate precludes the Legislature from adding non-germane amendments to bills after the introduction deadline. Instead, as discussed, the Constitution gives the Legislature alone the authority to select the bill introduction deadline, just as it gives the Legislature the sole authority over its rules of proceedings and the qualification of its members. Just as the determination and enforcement of these matters are solely vested in the Legislature, so too is the matter of the bill introduction deadline.

Interference with the Legislature's ability to determine for itself not only when the deadline should be set, but whether a bill has met the deadline, thus constitutes a lack of respect for the Legislature's authority over a matter that has been specifically left to its discretion. "[W]hen resolution of [an] uncertainty has already been committed to the legislature, the political question doctrine bars court review of an issue." *Nelson*, 127 Hawai'i at 196, 277 P.3d at 290. The intrusion is even more acute because it would impede a coordinate political branch's authority to govern itself. *Common Cause v. Biden*, 909 F.Supp.2d 9, 31 (D.D.C. 2012) (finding that a case challenging the Senate's filibuster rule "would require an invasion into internal Senate processes at the heart of the Senate's constitutional prerogatives as a House of Congress, and would thus express a lack of respect for the Senate as a coordinate branch of government."). Applying the bill introduction deadline as Plaintiff urges would also inhibit the Legislature's ability to perform one of its essential functions – passing laws necessary to respond to unforeseen circumstances. And it is not as if recognizing the Legislature's authority here renders it unaccountable; it is, of course, accountable to voters, who are free to express their preferences as to the practice of making non-germane amendments or using short-form bills.

In sum, because at least four of the *Baker* factors are present here – but were not present in the *League of Women Voters* case – this case presents a political question, notwithstanding that Plaintiff alleges the violation of a constitutional requirement.

E. If the Court were to conclude that at least one of the Nel[s]on/Baker factors is implicated (e.g., textually demonstrable commitment; lack of judicially manageable standards) but not the other, analyze whether that is sufficient to render Count II non-justiciable, and why.

A political question exists and dismissal is warranted if at least one of the *Baker* factors is present. *League of Women Voters*, 150 Hawai'i at 192, 499 P.3d at 392 (quoting *Baker*, 369 U.S. at 217); *Lee*, 120 F.4th at 889; *Republic of Marshall Islands*, 865 F.3d at 1200. Indeed, the Court

in *Salera* expressly stated that "[u]nder the *Baker* test, a case involves a non-justiciable question **if any** of the following circumstances applies," before listing the six *Baker* factors, and only found that the case was justiciable after concluding that "[t]his case does not involve **any** of the circumstances set forth under the *Baker* test[.]" *Salera*, 137 Hawai'i at 422, 375 P.3d at 201 (emphases added). Thus, if this Court were to conclude that any one of the *Nelson*/*Baker* factors is implicated, it must dismiss Count II.

F. At the hearing, counsel for Plaintiff indicated that if the Court were to grant their motion, the unintended consequence would be the elimination of short form bills to address emergency circumstances and that such emergencies, should they arise, may be addressed by way of a special session. How would your party reconcile this with an emergency that arises between the final bill introduction deadline and the close of the legislative session? Also address whether the Court should take into consideration these unintended consequences in deciding the Motions for Summary Judgment.

Under Plaintiff's argument, if an emergency arises after the final bill introduction deadline but before the close of the legislative session, the only way the Legislature could pass legislation to address the emergency during the session would be if the provisions can be inserted into an existing, germane bill. The Legislature could attempt to draft short-form bills that are specific enough to meet Plaintiff's conception of what is sufficient content to constitute a bill, but the Legislature cannot predict with certainty what events might occur during the session. If the Legislature cannot insert necessary language into a pre-existing, germane bill, its only option is to pass the legislation in a special session. Even assuming that a special session can take place during a regular session (which is not clear), doing so still requires a written request of two-thirds of both houses, or the unilateral request of the governor. Haw. Const. art. III, § 10. It is anticipated that the regular session will have to stand in recess during the special session. This will cause many downstream effects, including the possible delay of critical funding and budget bills that need to be passed prior to the start of the next fiscal year on July 1. All these difficulties and contingencies raise the risk that the Legislature will be unable to quickly respond to unforeseen circumstances, even if the measures it intends to pass are uncontroversial, necessary, and could still be passed with sufficient notice and opportunity for public comment.

The Court should take these consequences into consideration, as they demonstrate why the political question doctrine should bar the claims raised in Count II. There is no indication that the intent of the bill introduction deadline was to lead to such drastic results, yet such results would be the logical outcome of Plaintiff's argument. In the absence of clear constitutional intent, the

Court must decide, as a matter of policy, whether restricting the Legislature's ability to respond to emergencies or other unforeseen circumstances is desirable in order to preclude any possibility that non-germane amendments will be added to bills after the introduction deadline. This policy decision should be left to the Legislature itself, which has the constitutional authority to make its own rules of procedure and set and enforce the bill introduction deadline. And if the public disagrees with that decision, they are not without remedy; they may either vote for different legislators or advocate for a future constitutional amendment. But such policy determinations are not for the Courts to make under the political question doctrine.

G. If the Court were to certify the legal issues outlined in the cross-motions for summary judgment as reserved questions for disposition by the Hawai'i Supreme Court pursuant to Rule 15 of the Hawai'i Rules of Appellate Procedure, what should be the reserved question(s)?

1. Is the title "Relating to Government" sufficient under Haw. Const. art. III, § 14 as applied to Act 290 of 2025?
2. Does the allegation that Act 290 of 2025 violated the Legislature's bill introduction deadline raise a political question when its originating bill, S.B. 935, was introduced before the deadline?
    a. If the foregoing is not a political question, was S.B. 935 a "bill" as introduced?

DATED: Honolulu, Hawai'i, March 13, 2026.

/s/ Lauren K. Chun
LAUREN K CHUN
Deputy Solicitor General

Attorney for Defendant STATE OF HAWAI'I

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEAGUE OF WOMEN VOTERS OF HAWAI'I, Plaintiff, v. STATE OF HAWAI'I, Defendant.	Civil No. 1CCV-25-0001456 (Declaratory Judgment) DECLARATION OF LAUREN K. CHUN

DECLARATION OF LAUREN K. CHUN

I, LAUREN K. CHUN, hereby declare as follows:

1. I am a Deputy Solicitor General for the State of Hawai'i and am counsel of record for Defendant State of Hawai'i ("State") in this matter. I am competent to testify as to the matters set forth herein.

2. Attached hereto as Exhibit "16" are excerpts from Volume II of the Proceedings of the Constitutional Convention of Hawai'i of 1968 (1972). The entire Volume is available on the official website of the Hawai'i Legislative Reference Bureau at: https://library.lrb.hawaii.gov/cgi-bin/koha/opac-retrieve-file.pl?id=54afe43b74590b45cbad61eb3684de48.

3. Attached hereto as Exhibit "17" are excerpts from Volume I of the Proceedings of the Constitutional Convention of Hawai'i of 1978 (1980). The entire Volume is available on the official website of the Hawai'i Legislative Reference Bureau at: https://library.lrb.hawaii.gov/cgi-bin/koha/opac-retrieve-file.pl?id=3e5bfe67137eebaac3d6d778ffa1ddaa.

4. Attached hereto as Exhibit "18" are excerpts from the 1984 Senate Journal, Regular Session. The 1984 Senate Journal is available on the official website of the Hawai'i State Legislature at: https://www.capitol.hawaii.gov/journal/senate/1984/Senate_Journal_1984_Regular_Session.pdf.

I declare, verify, certify and state under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED: Honolulu, Hawai'i, March 13, 2026.

/s/ Lauren K. Chun
LAUREN K CHUN
Deputy Solicitor General

Exhibit “16”

Proceedings of the

CONSTITUTIONAL CONVENTION OF HAWAII

Of 1968

VOLUME II

COMMITTEE OF THE WHOLE DEBATES

Published under the supervision of the
ADMINISTRATOR OF THE CONVENTION

State of Hawaii

HONOLULU, HAWAII
1972

"Any session may be recessed by concurrent resolution adopted by a majority of the number of members to which each house is entitled. Saturdays, Sundays, holidays and any days in recess pursuant to concurrent resolution shall be excluded in computing the number of days of any session."

We will take a voice vote. All those in favor signify by saying "aye." All those opposed, by saying "no." The motion is carried.

CHAIRMAN: Delegate Hung Wo Ching is recognized.

DELEGATE HUNG WO CHING: Yes. Mr. Chairman, I move for the adoption of the motion on Section 11 (A) as amended.

CHAIRMAN: Delegate Miyake is recognized.

DELEGATE MIYAKE: Mr. Chairman, I second the motion.

CHAIRMAN: Is there any discussion?

DELEGATE LUM: Sir, may I ask a question, please?

CHAIRMAN: Delegate Lum is recognized.

DELEGATE LUM: Does this mean that the session may recess for a period of, let's say, 15 days and then come back again if there's a joint agreement between both houses, and this would not affect the total present limitation of 60 days?

CHAIRMAN: It is my understanding that during a recess this does not affect the 60-day period. In other words, if you were to go for thirty days and take a 30-day recess, this would not count against your sixty days. You would come back after the 30-day period and still have thirty days to go.

Is there any other discussion?

DELEGATE LUM: So in actuality, from the day we start, let's say sometime in February, we can end the session some time in, maybe, November under this particular method.

CHAIRMAN: That is correct.

Is there any further discussion? Are you ready for the question? A vote in favor of the motion will be to adopt Section 11 of Committee Proposal 7 as amended by Delegate Dodge's Amendment No. 4 in its conformed status. We will use a voice vote. All those in favor signify by saying "aye." All those opposed, by "nay." The motion is carried.

Delegate Ching is recognized.

DELEGATE HUNG WO CHING: Yes. Mr. Chairman, under the present Constitution, regular sessions of the legislature are held annually commencing on the third—

CHAIRMAN: Delegate Ching, we have already taken a vote on this matter so it will not be necessary to have any further discussion on Section 11.

DELEGATE HUNG WO CHING: The whole section?

CHAIRMAN: That's correct.

At this point, we will be coming to Section 16 with the indulgence of the members, we would request that we break Section 16 into two categories which cover two different subject matters, and take them up separately, first paragraph and then second paragraph.

DELEGATE HUNG WO CHING: Mr. Chairman, I move for the adoption of Section 16 of this proposal.

CHAIRMAN: Section 16, the first paragraph?

DELEGATE HUNG WO CHING: Yes.

CHAIRMAN: Delegate Miyake is recognized.

DELEGATE MIYAKE: I second the motion.

CHAIRMAN: Is there any discussion of Section 16? This involves the 24-hour rule—adds one additional sentence to the present Constitution which provides for 24 hours before any bill—all those in favor—

DELEGATE KAUHANE: Mr. Chairman.

CHAIRMAN: Delegate Kauhane.

DELEGATE KAUHANE: Could we have the chairman of the committee explain this proposed amendment?

CHAIRMAN: Delegate Hung Wo Ching.

DELEGATE HUNG WO CHING: Mr. Chairman, this section relates to the passage of bills and carry-over bills. The present Constitution provides that no bill shall become law unless it shall pass three readings in each house on separate days. There is no provision for the carry-over of bills. Under the existing system, logjam of bills at the end of a session can be purposely created as a strategic political maneuver. The original intent of a bill having passed one house—

DELEGATE MIYAKE: Mr. Chairman.

DELEGATE HUNG WO CHING: —can be substantially changed—

CHAIRMAN: Delegate Miyake is recognized. To what point do you rise?

DELEGATE MIYAKE: To a point of inquiry.

Is Delegate Kauhane's question put to the first paragraph or is it referring to the second paragraph?

CHAIRMAN: Delegate Kauhane, would you like to answer the question?

DELEGATE KAUHANE: My question involves the entire section, but I would take it piecemeal.

CHAIRMAN: Delegate Ching, the question addressed to you refers to paragraph one as clarified by Delegate Kauhane.

DELEGATE KAUHANE: Mr. Chairman, will we get back to the proper section we're dealing on, Section 16?

CHAIRMAN: The question before you is Section 16 of Committee Proposal No. 7, the first paragraph dealing with the 24-hour rule only.

DELEGATE HUNG WO CHING: Yes, I'm coming to that, Mr. Chairman.

May I read the rest of my statement because it refers to—

CHAIRMAN: Delegate Ching, proceed.

DELEGATE HUNG WO CHING: All right. The original intent of a bill having passed one house can be substantially changed in legislative conferences. A bill in final form can then pass third reading in both houses without a reasonable opportunity for members of the legislature and the public for review in its final form. To correct this situation, our proposal will require that a bill be printed in its final form and be made available to the legislators and to the public for at least 24 hours before final passage. It is the committee's considered judgment that the substantial contribution which can be made by this rule through increasing awareness and understanding of the proposed legislation decisively overrides the possible problems in its adoption, might create.

CHAIRMAN: Is there any discussion?

DELEGATE KAUHANE: Mr. Chairman, my question is—

CHAIRMAN: Delegate Kauhane is recognized.

DELEGATE KAUHANE: My question is directed to the chairman of the committee.

I understand that the bill must pass three readings before the bill can actually become law, or have the semblance of becoming law with the signature of the governor. My concern here on the passage of the bill on three readings—one, is this, Mr. Chairman, does the reading of the bill by title on the third day constitute the bill having been read completely throughout?

DELEGATE HUNG WO CHING: May I yield to Delegate Miyake?

CHAIRMAN: Delegate Miyake is recognized.

DELEGATE MIYAKE: The constitutional provision as proposed by the committee on Section 16 does not state that the bill has to be read throughout. Therefore, it would be permissive for the legislative bodies provide the requirements as to how final reading will be interpreted in its own house or senate rules.

DELEGATE GEORGE LOO: Mr. Chairman.

CHAIRMAN: Delegate Loo is recognized.

DELEGATE GEORGE LOO: Will the chairman of the Legislative Powers Committee yield to a question?

DELEGATE HUNG WO CHING: I will.

CHAIRMAN: Delegate Ching. State your question to the Chair.

DELEGATE GEORGE LOO: Does this mean that there can be no amendment of the final bill? For example, let's—assuming there is a 24-hour delay for printing and that it's on the floor of the house or senate, that there can be no amendment of that bill?

DELEGATE HUNG WO CHING: If an amendment is made, it still has to go back to the original house for final passage, which is equivalent to a fourth reading.

DELEGATE DONALD CHING: Mr. Chairman.

CHAIRMAN: Delegate Donald Ching is recognized.

DELEGATE DONALD CHING: May I attempt to answer the question? In relation to the last question, the committee did discuss this procedure at length and what would happen if the passage of this amendment to the Constitution would mean to legislative processes would be that the bulk of the amendments would come at the time of the second reading. In fact, all of the amendments should come at the time of the second reading on the bill. Then after the bill has been fully discussed on second reading by either house, it shall then be printed up in the final amended form; be printed, be distributed to the members of that house and to the public, and then 24 hours shall elapse before final reading shall be taken. However, if the house or any member thereof should propose another amendment, it can be done on third reading. But upon the adoption of that amendment it will mean that the bill will lay over for another 24 hours before it can be acted upon on third and final reading. Now, if it comes back from conference we have no problem there. This is only on third reading in either house.

DELEGATE KAUHANE: Mr. Chairman.

CHAIRMAN: Delegate Kauhane is recognized.

DELEGATE KAUHANE: I just heard the statement when we go to conference, well, we'll have no problem there. This is where the problem exists, when we go to conference.

My next question, Mr. Chairman, where a bill has

be lost by the defeat of Section 17.

DELEGATE YOSHINAGA: Mr. Chairman.

CHAIRMAN: Delegate Yoshinaga is recognized.

DELEGATE YOSHINAGA: I regret that Delegate Mizuha has not had some more time to review the history of the salary increases by the legislature of the State of Hawaii, or the Territory of Hawaii. If he can point out to me one instance where raises were granted, I shall shut up for the rest of the Convention.

Now, it's great to think what fine people there are down at the legislature, but there are people who are opposed to pay raises who are legislators and somehow people seem to assume that all people, all legislators are for pay raises. But it is my very frank opinion that there are legislators who are vigorously and violently opposed to pay raises so that the pay will remain low as it has been all through history. And so that the best talent available in Hawaii, who don't run merely because they cannot become financially secure or at least financially provide for their families, are prevented from seeking public office, especially the legislature.

DELEGATE GOEMANS: Mr. Chairman.

CHAIRMAN: Delegate Goemans is recognized.

DELEGATE GOEMANS: In response to the statement of the robust delegate from Kauai, I must say that the effect of the defeat of Section 17 by the voters would not be to allow the legislature to set salary levels for the 1969 session or for the 1970 session, because we would then have as applicable Section 17 of the original Constitution which reads, "Until otherwise provided by law in accordance with Section 10 of Article III. . ."; so that Section 10 of Article III as amended here, which would be in the new Constitution, the commission procedures would be followed and would become effective as the commission was appointed, and as the commission recommended, and as the legislature acted, in no case earlier than the session of 1971.

CHAIRMAN: Ready for the question? We are voting on the main motion for Section 10, Committee Proposal No. 7.

All those in favor, signify by saying "aye." All those opposed, "nay." The motion is carried.

The Chair will declare about a five-minute recess and then we will proceed to Section 16.

At 3:03 o'clock p.m., the Committee of the Whole stood in recess subject to the call of the Chair.

The Committee of the Whole reconvened at 3:15 o'clock p.m.

CHAIRMAN: The Committee of the Whole will please come to order.

The Chair will now ask the committee to return to paragraph 1 of Section 16 of Committee Proposal No. 7 which we were discussing this morning when an amendment was being printed by Delegate Kauhane.

Delegate Kauhane, do you wish to make a motion? Delegate Kauhane is recognized.

DELEGATE KAUHANE: I was looking around first, Mr. Chairman, if all members are here because I need someone to second this. Mr. Chairman, the Amendment III (8) which reads:

> "Section 16 of Article III as it appears in Committee Proposal No. 7 is hereby amended by deleting the words 'twenty-four' from the second sentence and substituting 'forty-eight' therefor"

has been printed and distributed and I am certain all members have a copy. I therefore move for the adoption of the amendment.

CHAIRMAN: Delegate Shiigi is recognized.

DELEGATE SHIIGI: Mr. Chairman, for the purpose of discussion I second the motion.

CHAIRMAN: Delegate Kauhane is recognized.

DELEGATE KAUHANE: Mr. Chairman, I'm happy to have someone in my class get up and second the motion for the purpose of discussion. Mr. Chairman, and member delegates, in offering the amendment, I am not trying to waste a lot of your time. But I feel that the amendment has some merit and should be given serious consideration by all of you. I'm talking about bills that require three readings. I'm for the principle of a bill having been reported out of the committee on third reading lay on the table for 24 hours. I am in full agreement of that, but beyond that agreement to lay it on the table for 24 hours, I am concerned with this factor—and those of you who have not served in the legislature should—I do hope you can lend me your ears and pay some strict attention to this procedure that I am about to illustrate for the reasons why I am offering this amendment.

As a compromise to all the objections that I would raise on the matter of third reading of bills, what I am about to say is familiar to all members that served in the legislature. In the first instance, a bill having been introduced by a sponsor, it is the practice on first reading that the bill be read by title, be ordered to print so it conforms with the first act of passing on first reading. Later, after the bill having been printed, lay before all of the legislators. Next, on second reading it would be referred to committee. The bill is still in its original form as when introduced. It has been the practice in the past and my experience in having served with the predominant legislature of one political party and then by another political party—it has been the practice that the chairman of a committee would report out the bill in its original form on the floor, requesting that the bill be voted upon with the recommendation that the bill pass second reading when no committee

meetings have been held, no amendments made to the bill and that the same bill be recommitted back to the same committee. The committee handling the action having been approved to pass the bill on second reading goes to the committee for its consideration and any amendments that they can make to the particular bill.

Now in the first instance, the bill complies with the rule that the bill having had to be read on three separate days, first and second reading. The most important thing comes to third reading of the bill. When the bill comes out of the committee, we send an elephant into the committee in the first instance. The committee reports the bill entirely new in concept, not the changing of one figure when appropriation of dollars are needed, but a whole complete change with the contents in which the bill was originally introduced may contain one page. That bill comes out either 14 or 10 pages, different than the original. The committee recommends that the bill pass third reading in its amended form. You may have intended to request consideration of the matter of the caring of elephants. This bill comes out with the caring of the elephants, dogs, pigeons and what not and then we are voting on third reading for the passage of a completely new bill. I dare ask whether this has passed the required procedures of the bill having passed three readings on three separate days.

In past practices where the committee has recommended that the bill, as amended, pass third reading in the amended form, I have experienced the practice where in voting for the adoption of the committee report with its recommendations, no one has the opportunity to amend the bill. Some of the legislators who have served in those sessions say to me, "Well, we had an opportunity." But once the recommendation to the committee has been adopted you had no opportunity. I am trying to prevent this type of thing from happening. I am trying to prevent any citizen from going into court to test the constitutionality of the legality of the passage of this bill on third reading in this disguised form.

I know that the learned representatives or senators, whatever the case may be, may come out with the famous terminology "notwithstanding"—"notwithstanding" the bill shall pass third reading. But then did the bill really pass third reading? Did the bill really pass and meet the criteria that the bill has been read in three different days? And because of this consultation that I had during—early in the recess amongst those that I have the highest esteem for on the knowledge of legislative proceedings, we entered into an agreement that extended—extended the 24-hour waiting period to 48 hours. There has been before the committee other jurisdiction which carries over to 72 hours. So they came up with a happy compromise of all to extend to 24. I asked one of the attorneys of the Constitutional Convention during the lunch hour recess whether or not this legally constituted passing the bill on three separate readings. There is a question, he says, that this legal question has never been raised yet. I am concerned about the future attempt of the possibility of the legal question being raised. Not necessarily by any citizen, but it may be by one of the legislators, that in order to plug that loophole and to make sure that all of these actions undertaken by the legislature are legal and beyond any question of doubt have met the conditions under which those are to be considered, first, second and third reading.

Mr. Chairman, because of that reason and for your indulgence I thank you very much for permitting me the opportunity to seek out a compromise. As I said to you I have other areas to question the bill on the three readings from other jurisdictions. I have not as yet completed but I am willing to end the pursuit of further questioning on the procedure and ask that this delegation after I had consulted with the chairman of the committee on the agreement of the extension from 24 to 48-hour layover. This will take care of some of the problems that I am very much concerned with and I do hope as expressed by some of the legislators of their concern of this matter. Again, thank you very much for your kind courtesy, Mr. Chairman. I ask the members of this Convention to vote for the approval of this amendment.

DELEGATE BEPPU: Mr. Chairman.

CHAIRMAN: Delegate Beppu is recognized.

DELEGATE BEPPU: I speak against the amendment. I think our experience in this session here in the Constitutional Convention of 1968 proves that some of the provisions that we have in the rules are archaic, are not workable. About the middle of the session we found some concern about the delaying tactics employed during the floor action here. In fact, it went so far as to change the rules to drop four days to two days. I think this kind of provision of 24 hours is adequate to any legislative operation. To increase this to 48 hours is going to be a little hindrance to legislative operations and to have something in the Constitution which is very inflexible is going to work at a disadvantage to the legislators. For these reasons, Mr. Chairman, I ask for a "no" vote.

CHAIRMAN: Delegate Donald Ching is recognized.

DELEGATE DONALD CHING: Mr. Chairman, I, too, rise to speak against the amendment. First of all, I would like to point out that the practice that the proponent of this amendment speaks of has not prevailed in the legislature—well, I can safely say since the coming of statehood. And secondly, that—

DELEGATE KAUHANE: Mr. Chairman, I rise on a point of order.

CHAIRMAN: State your point of order, delegate.

DELEGATE KAUHANE: —and I know that in some area, unwillingly and unintentionally, this continued practice is still going on.

DELEGATE DONALD CHING: May I have a ruling on the point of order so I might continue with my discussion of the subject. If he wants to rebut he can

Exhibit “17”

Proceedings of the

CONSTITUTIONAL CONVENTION OF HAWAII

of 1978

Volume I

Amends provision that the legislature may propose a constitutional amendment by a majority vote in both houses on final reading at each of 2 successive sessions to provide that it shall instead be so proposed in successive odd- and even-numbered years.

69 - Provides for a board of education composed of members who shall be the elected representatives of the district school advisory councils, created in accordance with law and reflecting the geographic subdivisions of the State.

Deletes requirement that board of education be composed of members elected by qualified voters in accordance with law with at least part of the membership of the board representing geographic subdivisions of the State.

Requires district school advisory councils to be composed of elected representatives of the school complex advisory boards whose membership shall be composed of the elected representatives of the individual school advisory councils.

Requires members of the individual school advisory councils to be elected by qualified voters, as provided by law. Provides that the governor may veto any specific appropriations item except for items appropriated to be expended by the board of education as well as the judicial and legislative branches.

70 - Provides that the members of the senate shall serve staggered terms. Provides that in the general election of 1978 the members to which each district is entitled shall be divided in half. The members obtaining the highest vote shall be members of the first class and elected for 4 years. The remaining members from the district shall be in the second class and shall be elected for 2 years. Thereafter the successors of the members of the second class shall be elected for 4 years. Provides that where unable to determine class due to tie, the tie shall be decided by lot supervised by the chief election officer with the winner to be in the class with the longest term.

Requires the reapportionment commission to designate which district is to be represented by senators whose terms extend past reapportionment. Provides in making such designation the senator need not live in the district the senator is designated to represent. Requires commission in making designation to consider (1) the senatorial district the senator was elected from, (2) the senatorial district in which the senator will reside under the reapportionment plan, and (3) the requirement of continuing staggered terms and the number of senators in a senatorial district under the commission's reapportionment plan. Requires the commission to give no consideration to holdover senators in redistricting. Deletes minimum representation for basic island units.

71 - Limits authority of legislative conference committees to resolving differences between house and senate versions of bills or resolutions. Prohibits conference committees from amending identical provisions except to conform to other provisions. Prohibits insertion of unrelated or new subjects, except in the general and supplemental appropriations bills, and the general public improvement bill. Requires elected and appointed officials' salaries, pension, or retirement benefits to be considered in a separate bill other than the appropriations and public improvement bills, or any bill ratifying collective bargaining agreements.

72 - Requires that federal funds received by the State shall be expended for the purposes for which they were received.

73 - Provides that the public shall have access to all records and proceedings of the State and its political subdivisions but that access may be limited where the government has a compelling interest against access or where another's constitutional rights are violated. Provides that a news media employee shall not be compelled to reveal a confidential source of news information.

74 - Provides for removal or retirement of a judge of a court inferior to the circuit court in same manner as a justice of the supreme court or circuit court judge, for incapacity, wilful misconduct in office, wilful and persistent failure to perform duties, habitual intemperance or prejudicial conduct. Provides for certification by a commission or agency and inquiry by a board.

75 - Prohibits segregation because of sex in public educational institutions.

76 - Provides for economic security as an inherent and inalienable right.

Provides the governor shall nominate and, by and with the advice and consent of the senate, appoint the judges of the district courts.

Requires the term of office of a justice of the supreme court and of a judge of a circuit or district court to be 6 years instead of 10 years.

129 - Provides that there shall be a judicial commission consisting of 11 members: 8 members to be elected at large by the registered voters for 4-year terms where at least 1 member shall reside in each senatorial district in the State and 3 members to be selected by the 8 elected members to serve 4-year terms. Requires that not less than 3 attorneys and not less than 3 lay persons shall serve on the commission. Provides the 4 persons with the highest vote in the first election shall serve for 4 years while the remaining elected members shall serve for 2 years and thereafter, all shall serve 4-year terms.

Requires the members of the commission to be nominated, elected and appointed to serve without regard to political affiliation. Requires the appointment and election to be made within days after commencement of regular sessions of the legislature and if there is no appointment or election, selection of members to be made by the supreme court within days after such failure.

Provides each member of the judicial commission shall be a resident of the State and a citizen of the United States; that none shall hold any other public office or office in any political party or organization or be eligible for appointment to judicial office so long as the person is a member of the commission and for a period of 3 years thereafter; and they shall exercise their duties without regard to partisan politics.

Provides that in case of the death, resignation, disqualification or incapacity to serve of a member, vacancies shall be filled by the commission in the case of appointed members, while vacancies of elected members shall be filled as provided by law.

Requires the commission to recommend 1 highly qualified person to the governor whenever there is a judicial vacancy to be filled in the supreme, circuit or district court. Allows governor to appoint this person to fill the vacancy, subject to the advice and consent of the senate. Provides that if the governor does not accept the recommendation of the commission, the commission has the power to override the governor's decision and appoint the person so recommended by a 2/3 vote of the membership, subject to the advice and consent of the senate.

Requires the commission to review the performance and conduct of the justices and judges and to rate them well qualified, qualified or unqualified. Provides that the governor may reappoint a justice or judge who is rated well qualified or qualified, but shall not reappoint one rated unqualified.

Requires the commission to select one of its members to serve as chairperson.

Provides the governor shall nominate and, by and with the advice and consent of the senate, appoint the judges of the district courts.

Requires the term of office of a justice of the supreme court and of a judge of a circuit or district court to be 6 years instead of 10 years.

130 - Provides that legislative conference committees consist of members of each house of the legislature appointed to resolve differences between the houses on any matters where the joint agreement of the houses is required. Provides that the authority of such committee is limited to resolving differences between the house and the senate versions of a bill or resolution. Prohibits a conference committee from (1) amending provisions of a bill or resolution which are identical in both versions; provided such identical provisions may be amended to conform to all other provisions of the bill or resolution; and (2) amending a bill or resolution by inserting any unrelated or new subject. Exempts general appropriations, supplemental appropriations and the general improvements bills from the above provisions. Requires increases to salaries, pension or retirement benefits for any elected or appointed officer of the State or county to be considered in a separate bill other than the aforementioned appropriations and public improvement bills or any bill ratifying collective bargaining agreements.

Provides that meetings of such committees shall be conducted as agreed upon by members of the committee subject to the other provisions of this amendment and that meetings and decision-making sessions shall be open to the public with notice of such meetings to be posted or announced.

ancestry and extends prohibition to areas of national origin, sex, age or handicap.

718 - Requires at least part of the membership of the board of education to reside in, rather than to represent, specific geographic subdivisions of the State.

719 - Deletes requirement that superintendent of education serve as secretary of the board of education.

Requires the board to submit the budget for support of public schools and libraries to legislature with biennial and supplementary budget recommendations of governor. Restricts legislative power over budget to approving or modifying total expenditure only and prohibits exercising budgetary initiative and amending specific budget items.

720 - Provides that committee of members of each house appointed to confer on differing items in bill for final passage shall not consider items not in conflict nor recommend new items for final consideration.

721 - Allows the State to designate any natural resource as a state treasure as provided by law for purposes of conservation. Requires all state treasures to be managed and utilized as provided by law. Provides that state treasure on private property is subject to reasonable regulation.

722 - Requires the legislature to provide for a civil service commission within a department to investigate, hear and decide personnel appeals and perform those other functions as provided by law. Provides that the commission shall be composed of 7 members having administrative experience, selected in a manner provided by law. Requires the membership to represent a cross section of the community including private and public industry, labor and management. Provides that at least part of the membership of the commission shall represent geographic subdivisions of the State.

723 - Provides all freshwater resources in the State, notwithstanding riparian and other vested rights, are designated as natural resources under the control and guardianship of the State. Reserves to the State all geothermal resources, including the natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from, such natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases and steam, in whatever form, found below the surface of the earth, but excluding oil, hydrocarbon gas or other hydrocarbon substances, in, on or under any land, fast or submerged.

724 - Requires the State to promote the preservation and conservation of existing agricultural lands and resources which recycle water resources into the water supply.

725 - Provides that a judicial advisory committee of 5 members shall interview and review the qualifications of all individuals being considered for judicial appointments. Provides proceedings may be held in confidence. Composes committee of 1 member appointed by the governor, 1 member appointed by the legislature, 1 member appointed by the chief justice and 1 member appointed by the executive committee of the Hawaii bar association. Makes the dean of the University of Hawaii school of law a member.

Provides that upon favorable recommendation from the committee, the governor shall nominate and by and with the advice and consent of the senate, appoint the justices to the supreme court and judges to the circuit courts. Provides that the nomination shall be sent to the senate before the 20th day of the legislative session.

726 - Deletes provision of domiciliary care by the State of mentally or physically handicapped persons. Amends section to provide for treatment and rehabilitation by State of handicapped persons.

727 - Creates a government organization and operations commission consisting of: 8 elected members, 5 from the city and county of Honolulu and 1 each from the counties of Hawaii, Kauai and Maui; and 3 appointed members, 1 each appointed by the governor and the majority and minority leaders of the senate. Provides that the commission becomes operative immediately after the November 1980 general election for a 4-year term or until successors are elected or appointed.

Requires the commission to submit to the legislature in each session in an odd-numbered year its recommendations regarding changes in the executive branch organization,

Exhibit “18”

JOURNAL

of the

SENATE OF THE TWELFTH LEGISLATURE

of the

STATE OF HAWAII

Regular Session of 1984

Convened Wednesday, January 18, 1984
Adjourned Thursday, April 19, 1984

HOUSING AND URBAN DEVELOPMENT

Senator Patsy K. Young, Chairman
Senator Milton Holt, Vice-Chairman

Senator Steve Cobb
Senator Duke T. Kawasaki
Senator Mamoru Yamasaki
Senator Ralph K. Ajifu
Senator Ann Kobayashi

HUMAN RESOURCES

Senator Norman Mizuguchi, Chairman
Senator Neil Abercrombie, Vice-Chairman

Senator James Aki
Senator Benjamin J. Cayetano
Senator Steve Cobb
Senator Milton Holt
Senator Patsy K. Young
Senator Richard Henderson
Senator Ann Kobayashi

JUDICIARY

Senator Anthony K.U. Chang, Chairman
Senator Benjamin J. Cayetano, Vice-Chairman

Senator Dante K. Carpenter
Senator Steve Cobb
Senator Gerald T. Hagino
Senator Milton Holt
Senator Joseph T. Kuroda
Senator Mary George
Senator Ann Kobayashi

LEGISLATIVE MANAGEMENT

Senator Patsy K. Young, Chairman
Senator Steve Cobb, Vice-Chairman

Senator Mary George

TOURISM

Senator Joseph T. Kuroda, Chairman
Senator James Aki, Vice-Chairman

Senator Dante K. Carpenter
Senator Bertrand Kobayashi
Senator Norman Mizuguchi
Senator Mary George
Senator W. Buddy Soares

TRANSPORTATION

Senator Bertrand Kobayashi, Chairman
Senator Clifford T. Uwaine, Vice-Chairman

Senator Dante K. Carpenter
Senator Anthony K.U. Chang
Senator Joseph T. Kuroda
Senator Malama Solomon
Senator Charles T. Toguchi
Senator Mary George
Senator W. Buddy Soares

WAYS AND MEANS

Senator Mamoru Yamasaki, Chairman
Senator Bertrand Kobayashi, Vice-Chairman

Senator James Aki
Senator Gerald T. Hagino
Senator Milton Holt
Senator Duke T. Kawasaki
Senator Gerald K. Machida
Senator Norman Mizuguchi
Senator Malama Solomon
Senator Clifford T. Uwaine
Senator Patsy K. Young
Senator Ralph K. Ajifu
Senator Richard Henderson
Senator W. Buddy Soares

reason for the nineteen days, you see before you tonight. There are people from the media sitting right in these cubbyholes over here; there are members of the public in the gallery; people can observe the proceedings; we are in our offices and available; we have staff available; before the session starts it's all hit-and-miss proposition, you may or you may not run into a legislator. I would remind everybody that not all of us live on Oahu and it may be a quite different proposition for those who live on the neighbor islands to engage in this process that would be contemplated should we gain this so-called flexibility.

"The question before me, as far as I'm concerned, is flexibility for whom? It is certainly not flexibility for the public with respect to the introduction of bills or any other business that may be conducted during the nineteen days. It seems to me the bottom line on this legislation and the legislation that is attendant with it, as indicated by Senator Carpenter, HB 1948 will have the effect of reducing for the public the capacity to have bills introduced, to scrutinize bills, to engage in dialogue in a sensible and in a business environment that will increase the capacity for those who have the possibility of engaging lobbyists, of having the time and opportunity available to seek out legislators before the session, etc., to carry on their activity. It would make it much more difficult for citizens as a whole or those who have an interest, perhaps, on an intermittent basis to make themselves known and to make themselves heard.

"There is no good reason for doing this. There may be some reason for doing it in terms of fashionable convenience for the Legislature, but certainly no pressing constitutional necessity for making these changes. And, unless such a necessity can be established, I think it is well for any legislative body to leave the Constitution alone."

Senator Chang then rose to speak in favor of the measure as follows:

"Mr. President, it seems to me that the proposition to be put to this body and to the public has been misstated.

"The proposition, simply put, is this. Shall the requirement that bills be introduced after the nineteenth day of the session and prior to the commencement of the mandatory recess be repealed, permitting each house to provide for that date of introduction by rule of its proceedings applicable to both houses? That is the proposition, plain and simple.

"By permitting the establishment of this particular item in the legislative timetable, it would be consistent with the remaining Section XII of Article 3, whereby, each house chooses its own officers, determines the rules of its proceedings and keeps a journal. We might note, Mr. President, that there is no constitutional provision that relates to the date of the first crossover or that of the second crossover or the date by which substantive resolutions shall be introduced. All of these items are crucial to the faith of every proposition presented to both bodies.

"This particular proposal merely permits the Legislature to establish a timetable that is appropriate to the conditions that it must deal with in its proceedings each year and I believe that it is a proposition well worth considering and will enhance the effectiveness of this body.

"Thank you."

Senator Carpenter then responded as follows:

"Mr. President, while I recognize the good intentions of the previous speaker, I don't think that proposition that is so clearly stated is stated anywhere, in any committee report, or in the bill for an act, or in the language that is to be repealed, or in any new language which is absent on this bill.

"Mr. President, I suggest that the possibility also exists that while the previous speaker's ideas may in fact be the proposition, the proposition could in future Legislatures go beyond that which is indicated here and be diametrically opposed to the purpose stated in this particular statute or the bill for a constitutional amendment, say, to change the day to sometime after the nineteenth, possibly to the fiftieth day, and that is certainly not precluded in the mere removal of language...from the constitutional language which is presently in the books. That could happen.

"The purpose clause will certainly not appear in the constitutional amendment and will certainly not appear in any discussion after the acceptance of the question, should the question be in fact put in the manner in which was suggested by

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document has been served electronically (through the Court's JEFS system), or conventionally via US Mail, upon the following parties on the date below:

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DATED: Honolulu, Hawai'i, March 13, 2026.

/s/ Lauren K. Chun
LAUREN K CHUN
Deputy Solicitor General

Attorney for Defendant STATE OF HAWAI'I