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**DRAFTING STYLE**

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# HOUSE LEGISLATIVE COUNSEL'S MANUAL ON DRAFTING STYLE

DECEMBER 2022



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PREPARED BY  
**THE OFFICE OF THE LEGISLATIVE COUNSEL**  
U.S. HOUSE OF REPRESENTATIVES



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# Manual on Drafting Style

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## **SEC. 2. GENERAL INTRODUCTION.**

The Office of the Legislative Counsel of the House of Representatives is the legislative drafting service of the House. Formally established by statute in 1919, the Office has for more than 100 years provided nonpartisan, confidential, and timely legislative drafting and related assistance to the Members, committees, and staff of the House.

In February 1989, the Office published its first drafting style manual, titled “Style Manual; Drafting Suggestions for the Trained Drafter”. The manual was the product of several years of work and discussion within the Office, as well as consultation with the Office of the Legislative Counsel of the Senate, the Office of the Law Revision Counsel of the House of Representatives, and other drafters of Federal legislation. The entire project was the inspiration of Ward M. Hussey, then the Legislative Counsel of the House of Representatives, and the final manual reflected his belief in the need for a uniform style of drafting Federal laws.

Since the date of its initial publication, the manual has indeed had a broad effect on Federal legislation, as any comparison of laws enacted before and after that date will indicate. The manual has been cited by numerous Federal courts and has also been translated into additional languages and adopted as a style manual for the drafting offices of legislatures of several other countries.

The manual was updated in 1995 to make technical revisions and add substantive comments through the use of footnotes. The chief purpose of this third update in 2022 is to humbly recognize the progress made in achieving the goal of the original edition to standardize the approach and style of Federal law. With the exception of appropriations bills, nearly all Federal laws drafted since the 1980s adhere to the advice laid out here. Other changes to this edition are either technical and minor or address newer developments in the evolving customary practice of Congress or case law from the Supreme Court.

As noted in the foreword to the original and revised editions, the manual is not intended to be a treatise on legislative drafting, but rather a guidebook for individuals who are undergoing, or have undergone, on-the-job drafting training. Many important issues are not addressed, while numerous others are mentioned only in a summary manner. However, several useful resources are available for those who wish to explore legislative drafting issues in greater detail. Among these are the following excellent works:

(1) Lawrence E. Filson and Sandra L. Strokoff, *THE LEGISLATIVE DRAFTER'S DESK REFERENCE*, 2008 (CQ Press).

(2) Tobias A. Dorsey, *THE LEGISLATIVE DRAFTER'S DESKBOOK: A PRACTICAL GUIDE*, 2006 (Capitol.Net).

It is hoped that this manual will assist the Members, committees, and staff of the House in carrying out their duties, while at the same time furthering public knowledge about the crafting of legislation. Comments and suggestions for improvements in future editions are encouraged and may be sent to [legcoun@mail.house.gov](mailto:legcoun@mail.house.gov).

## **DIVISION A—IN PURSUIT OF BETTER DRAFTING**

### **TITLE I—DRAFTING PRINCIPLES UNDERLYING THE STYLE OF THE OFFICE OF THE LEGISLATIVE COUNSEL OF THE HOUSE**

#### **SEC. 101. SUBSTANCE BEFORE STYLE.**

While the focus of this manual is to ensure a more unified drafting style, a draft that is merely in proper style should not be mistaken for a job well done. The heart of legislative drafting is not putting words into proper style, but putting ideas into proper words. A properly organized and formatted bill that does not express the policy of its sponsor is a properly organized and formatted failure. With that in mind, the four basic drafting skills are the following:

- (1) Finding out what the client really wants to do.
- (2) Analyzing the legal and other problems in doing that.
- (3) Helping the client come up with solutions to these problems that will—
  - (A) be administrable and enforceable; and
  - (B) keep hassles and litigation to a minimum.
- (4) Getting the client's message across.

#### **SEC. 102. MAIN MESSAGE.**

##### **(a) ORGANIZATION.—**

- (1) BE ORGANIZED.—Every draft should be organized.
- (2) ORGANIZATION SHOULD FIT THE MESSAGE.—The organization should be appropriate for the message the client wants to get across.



(3) START WITH MOST IMPORTANT THOUGHTS.—Usually most important thoughts should come first, and the thoughts should dwindle in importance from there down.

(b) USE SHORT SIMPLE SENTENCES.—

(1) IN GENERAL.—Use short, simple sentences.

(2) ELABORATION.—A listener survey was conducted recently. The median listener tunes out after the 12th word.

(3) BREAK UP COMPLEX AND COMPOUND SENTENCES.—Most complex and compound sentences should be broken into two or more sentences. Often the offending sentence contains—

(A) an unresolved policy issue; or

(B) both a general rule and one or more exceptions and special rules.

(c) STAY IN THE PRESENT.—Whenever possible, use the present tense (rather than the past or future). Your draft should be a movable feast—that is, it speaks as of whatever time it is being read (rather than as of when drafted, enacted, or put into effect).<sup>1</sup>

(d) CHOOSE WORDS CAREFULLY.—

(1) IN GENERAL.—Choose each word as if it were an integral part of the Taj Mahal you are building. There is one best word to get across each thought. To find that word, use the dictionary and bounce words and drafts off any member of the Office of the Legislative Counsel of the House who will listen. What a word means to you may not be what it means to the next person.

(2) USE ENGLISH RATHER THAN LATIN.—If you have a choice, use the English word rather than the Latin. Those few people who have had Latin in school can't agree on pronunciation.

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<sup>1</sup> See 1 U.S.C. 1 (expressing that in Federal law “words used in the present tense include the future as well as the present”).

(3) USE PUNCHY WORDS.—Seek out words that suggest action. For this, verbs are usually better than nouns and adjectives.

(4) NOUNS AS ADJECTIVES; POSSESSIVES.—Avoid the use of nouns as adjectives whenever possible (e.g., “policies of the Army” rather than “Army policies”). Similarly, strive not to use possessives (e.g., “the actions of the Secretary” rather than “the Secretary’s actions”).

(5) USE SAME WORD OVER AND OVER.—If you have found the right word, don’t be afraid to use it again and again. In other words, don’t show your pedantry by an ostentatious parade of synonyms. Your English teacher may be disappointed, but the courts and others who are straining to find your meaning will bless you.<sup>2</sup>

(6) AVOID UTRAQUISTIC SUBTERFUGES.—Do not use the same word in two different ways in the same draft (unless you give the reader clear warning).<sup>3</sup>

(7) CAST OUT IDLE WORDS.—If any word is idle, cast it out.

(e) DEFINE YOUR TERMS.—

(1) IN GENERAL.—Check to see if the use of one or more defined terms will improve the draft. Often a skillful use of definitions will promote clarity, brevity, and consistency.

(2) FEAR NOT INVENTING WORDS.—If there is no right word, or if the available words carry with them too much baggage, invent a word or term and define it.

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<sup>2</sup> See *Roberts v. United States*, 134 S. Ct. 1854, 1857 (2014) (“Generally, identical words used in different parts of the same statute are . . . presumed to have the same meaning.”) (quoting *Merrill Lynch, Pierce, Fenner & Smith Inc. v. Dabit*, 547 U.S. 71, 86 (2006)).

<sup>3</sup> See, e.g., *Russello v. United States*, 464 U.S. 16, 23 (1983) (“[Where] Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.”) (quoting *United States v. Wong Kim Bo*, 472 F.2d 720, 722 (5th Cir. 1972)).

(f) PART OF YOUR JOB IS TO GET THE MESSAGE ACROSS.—

(1) IN GENERAL.—Your client comes to you to send a message to one or more of the following:

- (A) The World.
- (B) The American people.
- (C) Fellow legislators.
- (D) Legislative staff.
- (E) Administrators.
- (F) Courts.
- (G) Constituents.
- (H) The media.
- (I) Others.

(2) IDENTIFY THE AUDIENCE.—Determine who is supposed to get the message.

(3) DRAFT SHOULD BE READABLE AND UNDERSTANDABLE.—

(A) REAL PEOPLE.—In almost all cases, the message has a better chance of accomplishing your client's goal if it is readable and understandable. It should be written in English for real people.

(B) AVOID JARGON.—Always strive to avoid the use of undefined jargon. The use of undefined terms that do not have a widely understood meaning creates two problems: First, the average reader may not understand their meaning, and second, congressional intent could be subverted by an agency or court that decides the term should mean something different than what was intended.

(4) USE READABILITY AIDS.—Use the following with enthusiasm whenever they will increase readability and understandability:

(A) Headings.

(B) Cut-ins.

(C) Numbered lists of items.

(D) Tables.

(E) Mathematical formulas.

(5) DOWNPLAY THE LESS IMPORTANT.—

(A) SUBORDINATING.—Often the draft can be improved by subordinating the less important.

(B) SUBORDINATING TECHNIQUES TO BE CONSIDERED.—Among the techniques for subordinating to be considered are the following:

(i) Consolidate or eliminate the less important.

(ii) Place lesser rules in a special rule section or subsection.

(iii) Weave the lesser rules into the main body by a series of inserts set off by parentheses.

(iv) Merely state that the rules that apply to “X” also apply to “Y”.

(g) A NOTE ON CANONS OF CONSTRUCTION.—The purpose of the Office of the Legislative Counsel of the House is to assist Congress in achieving “a clear, faithful, and coherent expression of legislative policies”.<sup>4</sup> While this manual helps describe ways in which the drafter may fulfill this charge, agencies and judges will from time to time need to determine what a law means. To that end, it is important for the drafter to be aware of the numerous canons of construction used by courts. But the drafter cannot be controlled by them because the canons do not lay out a coherent system of writing. As Karl Llewellyn wrote in 1950, for every canon

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<sup>4</sup> 2 U.S.C. 281a.

saying one thing, there is another saying the opposite.<sup>5</sup> Let clear writing be your lodestar and, when in doubt, be very specific as to the intended meaning of a particular phrase.

## **TITLE II—THE STYLE OF THE OFFICE OF THE LEGISLATIVE COUNSEL OF THE HOUSE**

### **SEC. 201. WHY SOME UNIFORM DRAFTING STYLE IS NEEDED.**

(a) **RELATIVE IMPORTANCE OF STYLE.**—The Office of the Legislative Counsel of the House of Representatives is a service organization. Its purpose is to provide legal service that best furthers the interests of its clients. This is carried out in the midst of constantly changing circumstances and demands, indeed often in the midst of chaos. In order to provide good legal service in the midst of changing and often chaotic circumstances, at least two things are needed: good judgment and good tools. Good judgment is obviously more important, but good tools are essential in implementing good judgment. Style is one of those tools. To be a good tool, style should be defined clearly. It should be one of the steady, predictable elements that attorneys use to reduce chaos to order, and not one of the fluctuating factors that contribute to the chaos. A good uniform style is one that gives clearly defined, steady, and predictable guidance for the structure and expression of legislation.

(b) **BENEFITS OF ANY GOOD STYLE UNIFORMLY APPLIED.**—

(1) **IN GENERAL.**—Adoption of any good drafting style as a uniform style for legislation can benefit—

(A) those of us who draft;

(B) those who have to work with or who are subject to the legislation;  
and

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<sup>5</sup> See Karl N. Llewellyn, *Remarks on the Theory of Appellate Decision and the Rules or Canons about How Statutes Are to Be Construed*, 3 Vand L. Rev. 395, 395 (1950).

(C) the Office of the Legislative Counsel of the House, the House, and the Congress, as institutions.

(2) A UNIFORM STYLE CAN BE HELPFUL IN DRAFTING.—

(A) STABLE FRAMEWORK.—Through the application of uniform principles regarding structure, a stable framework is provided for analyzing the legal and other problems of a legislative proposal and for organizing and expressing the proposal in an orderly, consistent manner.

(B) CONSISTENCY.—Through the application of standard rules of usage, consistency in expression can be obtained.

(C) TIME.—The application of any uniform style provides for the best use of time—

(i) when two or more attorneys, from the same office or from the House and the Senate, are working on the same job and would prefer to spend their time on substantive matters rather than on conforming style;

(ii) when one attorney is substituting for another attorney or is drafting from the work product of another attorney; or

(iii) when introducing a newer attorney to the style used in the Office of the Legislative Counsel of the House.

(3) A UNIFORM STYLE CAN BE HELPFUL TO THE READER (WHETHER THE CLIENT, AN AFFECTED PERSON, AN ADMINISTRATOR, OR A COURT).—

(A) COMMUNICATION.—A uniform style can help communicate the message by enabling the reader to concentrate on the important part of the message without being distracted by mere stylistic differences. This is particularly important when the stylistic difference could be erroneously thought to have legal significance under the doctrine that variations within a law are designed to convey meaning.

(B) ORDERLINESS AND CONSISTENCY.—In addition, most people, but particularly readers of law, have a need for (or at least an expectation of) orderliness and consistency in the expression of ideas that can be satisfied by use of a uniform style.

(4) A UNIFORM STYLE PROMOTES THE INSTITUTIONAL INTERESTS OF THE OFFICE OF THE LEGISLATIVE COUNSEL OF THE HOUSE, THE HOUSE, AND THE CONGRESS.—Besides those needs and expectations, it is apparent (fortunately or unfortunately) that people seem to be impressed with orderliness and consistency in documents. Elimination of unwarranted variations in the style of legislation can enhance respect for the work product of the Office of the Legislative Counsel of the House, for the efforts of the clients of the Office, and for the House and the Congress as institutions. When unwarranted variations do occur in the style of legislative language, the interests of neither the House nor the Congress are promoted, and aid is given to those who are looking for grounds to misinterpret the language or to criticize the process or product involved.

## **SEC. 202. THE OFFICE STYLE DESCRIBED.**

(a) IN GENERAL.—

(1) DERIVATION.—The Office style is derived from revenue style.<sup>6</sup> The headings in a bill above the section level, and the section and subsection headings, are to be in revenue style.

(2) WHAT IT CONSISTS OF.—The Office style is based on the drafting principles set forth in title I and consists of the elements of structure and style set forth in title III.

(b) FLEXIBLE USE OF OFFICE STYLE DEVICES BELOW SUBSECTIONS.—

(1) ATTORNEY TO MAINTAIN STYLISTIC TOOL BOX.—Each attorney should develop and maintain proficiency in the use of the breakdowns, headings, indentations, and other format devices of the Office style.

(2) ATTORNEY TO HAVE FLEXIBILITY IN USE.—The attorney should use such devices to the extent their use is appropriate to the complexity of the

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<sup>6</sup> The term “revenue style” derives from its use in the Internal Revenue Code. Note that what is now Office style also slightly deviates from the style used today in the Internal Revenue Code (chiefly regarding the use of commas and semicolons).

statute concerned and helps in expressing the client's message and in carrying out the client's policy.

## **SEC. 203. IMPLEMENTING OFFICE STYLE.**

(a) **IN GENERAL.**—Each attorney should come up with a practicable, orderly method for attaining as extensive a use of the Office style as can be reasonably achieved given the circumstances under which the attorney is drafting.

(b) **APPLICATION TO FREESTANDING PROVISIONS.**—Except in unique cases (such as appropriations bills and reconciliation bills) and subject to subsection (a), it is anticipated that the Office style would apply to the entire range of freestanding legislation dealt with by the Office.

(c) **APPLICATION TO AMENDMENTS TO EXISTING LAW.**—

(1) **GENERALLY.**—It is a goal that, in time, all Federal law will be in the Office style. It is also a goal that uniformity of style be maintained within a statute, at least as required for consistency of interpretation. In amending existing law, attorneys should pursue both goals. That is, the attorney should look for appropriate opportunities to apply the Office style in ways that do not cause the goals to conflict.

(2) **CERTAIN CONSIDERATIONS.**—In exercising the attorney's judgment in applying Office style in amendatory bills, it is assumed that the attorney might appropriately consider questions such as the following:

(A) What are the benefits of using the Office style, and how much does it vary from the style of the amended law? Would the benefits justify variation? Would conforming and technical amendments to the existing provisions also be justified?

(B) How separate will the new matter be from the existing matter? That is, will it be structurally separate, such as a new title or subtitle, and will it be functionally separate, so that its audience will not be flipping back and forth between the existing and the new?

(C) What impacts will using the Office style create during the legislative process?



## TITLE III—DRAFTING SUGGESTIONS FOR THE TRAINED DRAFTER

### Subtitle A—Introduction

#### SEC. 301. INTRODUCTION.

(a) GENERAL PRINCIPLES.—There are some general principles of legislative drafting and specific elements of structure and style that the Office of the Legislative Counsel of the House follows. An individual drafting legislation should thoroughly understand such principles and elements before engaging in the creativity essential to drafting. Because creativity is required for proper legislative drafting, legislative drafting cannot be reduced to a cookbook type of process in which items from lists of accepted “ingredients” are combined by the drafter to create a legislative product. A belief otherwise can only create a false sense of security. In addition, the diversity of individuals drafting makes a consensus on a precise guide respecting structure and style an impossibility. Nevertheless, a general agreement on as many drafting conventions as is possible will simplify the drafting process and improve the legislative product.

(b) USE.—As stated elsewhere in this document (see section 203(c)), it is the goal of the Office of the Legislative Counsel of the House that all Federal law will eventually be written in the Office style. To this end, each attorney is to use the Office style in any drafting project *as extensively as is possible under the circumstances surrounding that project* (see discussion on implementing Office style, section 203). The preceding sentence applies to the drafting conventions that are specified in this title just as it does to the general organization and format of the bill being drafted.

(c) CONTEXT.—The suggestions in this title are merely a collection of the items the Office of the Legislative Counsel of the House thought worthy of inclusion at the time this manual was written. It is not intended to be a complete compendium of drafting rules and conventions.

## **Subtitle B—Organization and Structure**

### **SEC. 311. ORGANIZATION.**

Before choosing an organization for a draft, determine to what extent it could appropriately fit into the following arrangement:

(1) GENERAL RULE.—State the main message.

(2) EXCEPTIONS.—Describe the persons or things to which the main message does not apply.

(3) SPECIAL RULES.—Describe the persons or things—

(A) to which the main message applies in a different way; or

(B) for which there is a different message.

(4) TRANSITIONAL RULES.—Describe the rules that are transitional and either are especially important or will have effect for a relatively long period of time.

(5) OTHER PROVISIONS.—Any other matters.

(6) DEFINITIONS.—See section 326.

(7) EFFECTIVE DATE.—See section 329.

### **SEC. 312. STRUCTURE.**

(a) ORGANIZATION OF OFFICE STYLE IN FREESTANDING BILLS.—

(1) ORGANIZATION ABOVE A SECTION.—Organization of large bills above the section level is nearly always addressed as follows:

**“TITLE I—\_\_\_\_**  
**“Subtitle A—\_\_\_\_**

**“SEC. \_\_\_\_ . \_\_\_\_”.”.**

## (2) OMNIBUS AND LARGER BILLS.—

(A) STRUCTURE.—In omnibus bills and other larger bills, it may be useful to have a level above that of title, particularly when the bill is made up of many other bills being stitched together as one single bill. It would appear as follows:

**“DIVISION A—**\_\_\_\_  
**“TITLE I—**\_\_\_\_  
**“Subtitle A—**\_\_\_\_

**“SEC. \_\_\_\_ . \_\_\_\_”.”.**

(B) SECTION NUMBERING.—It is best practice for each section of a bill to contain a unique section number. For example, even though the annual National Defense Authorization Act contains multiple divisions, each division continues the numbering from the previous division. (So division A begins with section 101, division B begins with section 2001, division C begins with section 3001, and so on). In some omnibus bills and other larger bills, though, this may not be possible if the bill is assembled at a late hour and combines many other bills. This is okay, but it results in the bill having multiple sections with the same section number. In these cases, check to see if those division’s references to “this Act” should instead be to “this division”, and future references to sections of that Act will need to specify which division is being cited.

(3) NOTE ON SUBCOMPONENTS.—One does not always need to use subtitles, and sometimes one needs to use subdivisions in between the division and title level. There is also occasionally a need to subdivide a subtitle, in which one can use “Parts” (and even “Subparts”). Occasionally one may see the use of “Chapters” (and “Subchapters”) between “Subtitles” and “Parts”. However, this is rarely needed and should be discouraged in freestanding bills. The key is to use the organization that makes the most sense with the fewest amount of extraneous levels.

## (4) SUBSECTIONS AND BELOW.—

(A) ORGANIZATION.—Once you are below the section level, things are fairly consistent as follows:

“(a) EXAMPLES OF OFFICE STYLE BELOW SUBSECTIONS.—This is a subsection.

“(1) IN GENERAL.—This is a paragraph.

“(A) SPECIAL RULES.—This is a subparagraph.

“(i) EXCEPTIONS.—This is a clause.

“(I) EFFECTIVE DATE.—This is a subclause.

“(aa) REFERENCES.—This is an item.

“(AA) PURPOSES.—This is a subitem.”.

(B) SECTION HEADINGS.—If section headings are used, as is nearly always the case in modern practice, then all sections in the bill should have them, including section 1.

(C) NOTE ON ITEMS AND SUBITEMS.—It is generally best practice to try to avoid getting to the level of items and subitems if possible. If drafting in those levels, ask yourself: To what depths have I sunk? What has my section become? Resorting to those levels is often a sign that the overall organization of the section should be rethought to make it clearer.

(b) MULTIPLE SUBDIVISIONS.—If there is a subdivision of the text of a unit, any further subdivision must nest inside the preceding subdivision. In other words, if a subsection has both paragraphs and subparagraphs, the subparagraphs must be nested within the paragraph. For example:

“(a) NEED FOR SUBDIVISION.—

“(1) OPTIONS.—One often finds the need for subdivisions. Subdivisions may take the form of—

“(A) paragraphs; or

“(B) other divisions.

“(2) USE IN COMPLEX LEGISLATION.—In complex legislation, there often is the need for multiple subdivisions. Such subdivisions are often found in—

“(A) the Social Security Act . . .”.

## **Subtitle C—Particular Legislative Provisions**

### **SEC. 321. THE TITLE OF THE BILL (ALSO KNOWN AS THE LONG TITLE OR OFFICIAL TITLE).**

(a) **IN GENERAL.**—A title should accurately and briefly describe what a bill does. A title can describe what a bill is about at varying levels of generality, but if the title is too general (e.g., “To improve people’s lives.”), it’s meaningless, and if it’s too specific, it can obscure the purpose of the bill. Try to strike a balance.

(b) **AMENDATORY BILLS.**—For bills amending primarily one law, use the form “To amend [citation of law] to . . .”.

(c) **CONSTITUTIONAL AMENDMENTS.**—For constitutional amendments, use the form “Proposing an amendment to the Constitution of the United States concerning . . .”.

(d) **AND FOR OTHER PURPOSES.**—If the bill covers multiple items, “, and for other purposes” may be used at the end of the title instead of describing each item.

(e) **PRIVATE RELIEF.**—For private relief, use the form “For the relief of . . .”.

### **SEC. 322. FIRST SECTION.**

As a general rule, for internal consistency and ease of citation and reference, designate the first section as section 1.<sup>7</sup>

### **SEC. 323. SHORT TITLE.**

(a) **FORM.**—For the short title, use the following form: “This Act may be cited as the ‘\_\_\_ Act’.”.

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<sup>7</sup> It is the general practice of the Office of the Legislative Counsel of the House to designate the first section of a bill as section 1 (with an appropriate section heading), even if the bill has only a single section. This practice promotes stylistic consistency among all bills drafted by the Office. Furthermore, this practice facilitates subsequent preparation of the bill as a new section to be added to other legislation, as well as the inclusion of additional sections in the bill during committee or House floor consideration.

## (b) USAGE.—

(1) IN GENERAL.—Subject to paragraph (7), a short title is appropriate—

(A) for major legislation; and

(B) to facilitate cross-references.

(2) MULTIPLE SHORT TITLES IN SAME ACT.—

(A) IN GENERAL.—The practice of providing a short title for each title, subtitle, or chapter generally should be avoided. For cross-reference purposes, “title II of the XYZ Act” will usually work as well as a special short title of its own.

(B) EXCEPTIONS.—Short titles for components of an Act are appropriate in the following cases:

(i) SHORT TITLE OF ACT MISLEADING.—In cases in which the component is added to an Act that has a short title that misrepresents the new component and that cannot easily be changed.

(ii) AGGREGATE LEGISLATION.—In cases of omnibus bills (such as budget reconciliation Acts) that consist of proposals that had been (or would otherwise be) separate legislation.

(3) AMENDATORY ACT.—If the Act is primarily amendments to another law, it is appropriate for the short title to include “. . . Amendments Act of [year]”.<sup>8</sup>

(4) LENGTH.—Keep it *short*.

(5) ACRONYMS AND INITIALISMS.—If the client chooses a short title that the client wishes to be referred to as an acronym or initialism, that abbreviated form should follow after the spelled-out short title, such as the following: “This Act may be cited as the ‘Always Be Closing Act’ or the ‘ABC Act’.”.

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<sup>8</sup> See, e.g., the Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2008 (Public Law 110–261; 122 Stat. 2436).

(6) INCLUSION OF YEAR.—It can be helpful to add “of [year]” after “Act” in the short title, especially for generic short titles that are used often.

(7) ORIGIN.—It is up to the client to decide whether to use a short title and what the short title should be because, at the end of the day, it is more often a political decision rather than a technical legal decision.<sup>9</sup>

## SEC. 324. TABLE OF CONTENTS.

(a) CRITERIA.—Use a table of contents to show sections and headings if it would be helpful (because of the length of the bill or otherwise). It is customary to use one if there are 10 or more sections.

(b) LOCATION.—Place the table of contents in section 1 after the short title if there is one.

(c) USE IN AMENDATORY BILLS.—If the bill contains a section adding a number of new sections to an existing law (such as a new title or chapter), it may be useful to show those sections in the table of contents. The following is an example of how that is done:

Sec. 2. Revision of title IV of the Public Health Service Act.

“TITLE IV—NATIONAL RESEARCH INSTITUTES

“PART A—NATIONAL INSTITUTES OF HEALTH

“Sec. 401. Organization of the National Institutes of Health.

“Sec. 402. Appointment and authority of Director of NIH.

“Sec. 403. Report of Director of NIH.

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<sup>9</sup> See *How Federal Statutes Are Named*, 105 L. Libr. J. 7, 26 (2013) (“Once the practice of including official short titles took hold, it began to be a means for political and other ends as well as technical ones. The tension between the two types of titles has continued to increase since then. A good short title to a professional drafter is short and dispassionately descriptive. To a politician it may be a means of selling the bill, embarrassing opponents, or honoring persons the politician wants to recognize. Since Congress is a political body as well as a legislative one, perhaps we should not be disturbed by this.”).

## SEC. 325. FINDINGS AND PURPOSES.

(a) IN GENERAL.—Discourage clients from including findings and purposes. Both are matters that are more appropriately and safely dealt with in the committee report, floor statements, or other legislative history than in the bill. If a “purpose” statement is inconsistent with the substantive provisions of a law, it could create confusion.<sup>10</sup>

(b) DRAFTING.—If the client insists on findings or purposes, or both, request the client to submit a draft. The client’s draft may be edited.

## SEC. 326. DEFINITIONS.

(a) IN GENERAL.—Check to see if the use of one or more defined terms will improve the draft. Often a skillful use of definitions will promote clarity, brevity, and consistency.

(b) NEW WORDS OR TERMS.—As explained in section 102(e), use new defined words or terms as appropriate.

(c) LOCATION.—Definitions should not come before the main message unless there are strong organizational or tactical reasons for doing so.

(d) LEAD-IN.—The most common approach is to say, “In this [provision]” because it is the shortest and most direct way to state the idea. However, it is also normal to see “For purposes of this [provision]” or “As used in this [provision]”.

(e) “UNLESS” PHRASE.—Avoid using “unless the context requires otherwise”. It is preferable to provide a specific cross-reference if a term is given a different meaning for a limited purpose elsewhere in the bill and there is a need to warn the

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<sup>10</sup> See *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 101 S. Ct. 1531, 67 L. Ed. 2d 694 (1981). However, a purpose provision that states the objective of the specific provisions can be useful in certain circumstances in which congressional findings may be imperative to establish the constitutional basis for congressional action. See, e.g., *United States v. Lopez*, 514 U.S. 549, 562 (1995) (“[A]s part of our independent evaluation of constitutionality under the Commerce Clause we of course consider legislative findings, and indeed even congressional committee findings, regarding effect on interstate commerce . . . We agree with the Government that Congress normally is not required to make formal findings as to the substantial burdens that an activity has on interstate commerce.”).



reader of the different usage. Of course, the number of times that the different meaning appears may require the use of the phrase “unless the context requires otherwise”.

(f) FORM.—

(1) PUNCTUATION AND CAPITALIZATION.—See the discussion regarding lists in section 351(d).

(2) USE OF THE TERM “TERM”.—Begin each of the definitions with the modifying phrase “the term”. This—

(A) avoids the potential confusion over initial capitalization; and

(B) permits the use of the construction “, except that *such term* does not include . . .”.

(g) SEQUENCE.—

(1) GENERAL RULE.—Except as noted in paragraph (2) or (3), the defined terms should be in a single section. It is preferable to order definitions by alphabetizing the terms, but other options are available.<sup>11</sup>

(2) BREAK-OUT OPTION.—At times, the defined terms consist of one or two relatively important terms and many less important ones. In those cases, it is appropriate to define the important ones with a separate section for each (headed “**X DEFINED**”) and the remainder grouped in another section (headed “**OTHER DEFINITIONS**”).

(3) INFREQUENTLY USED DEFINITIONS.—There are times, particularly when amending a larger provision of law that does not otherwise use the defined term, when it is appropriate for a smaller provision to include its own definitions.

(h) COMPOUND TERMS.—If a defined term consists of two or more terms that are themselves defined and are only used for the compound term, each term of the

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<sup>11</sup> The other methods of ordering the definitions within a single section are (1) by order of importance, and, rarely, (2) by order of appearance within the text of the bill.

compound term should have a definition as a smaller provision of the provision defining the compound term.

(i) PARENTHETICAL DEFINITIONS.—If the bill does not otherwise contain a definitions section,<sup>12</sup> it is acceptable to insert after the first place the longer reference occurs the following: “(in this [provision] referred to as the ‘Secretary’).”<sup>13</sup>

## **SEC. 327. APPROPRIATIONS AUTHORIZATION.**

(a) IN GENERAL.—Authorizations of appropriations are not required in legislation (see subsection (c)) unless there is a need to indicate the cost of the legislation or to limit the amount that may be appropriated under the legislation or the years for which appropriations are authorized.

(b) SPECIFIC AUTHORIZATIONS.—Authorizations of appropriations frequently contain the agency to receive the appropriation, the amount, the fiscal year involved, the purpose of the appropriation, and restrictions. All else being equal, the items should be stated in that order. Example: “There is authorized to be appropriated to the Secretary \$1,000,000 for fiscal year 2022 for grants under this section.”

(c) SUCH SUMS AS MAY BE NECESSARY.—A provision authorizing “such sums as may be necessary” is unnecessary since the enactment of legislation establishing an agency, authorizing an existing agency to undertake new functions, or authorizing or directing any other matter that requires funds is in and of itself an authorization of appropriations for the agency, function, or matter.<sup>14</sup>

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<sup>12</sup> It is the general practice of the Office of the Legislative Counsel of the House to avoid overly extensive reliance on parenthetical definitions, which will usually not be used as a replacement for a definitions section if definitions are required for three or more terms.

<sup>13</sup> By the example presented in the text, this manual rejects the use of “hereafter” and “hereinafter” in parenthetical definitions.

<sup>14</sup> See Charles W. Johnson, et al., *House Practice: A Guide to the Rules, Precedents, and Procedures of the House*, ch. 4, § 12 at 83 (115th Cong. 2017). It is important to recognize that the issue here is generally one of internal House procedures. In most cases, while an unauthorized appropriation is subject to a point of order in the

## SEC. 328. SEVERABILITY CLAUSES.

The Supreme Court has made it quite clear that invalid portions of statutes are to be severed “unless it is evident that the Legislature would not have enacted those provisions which are within its powers, independently of that which is not”. *See Immigration & Naturalization Serv. v. Chadha*, 462 U.S. 919, 931 (1983) (citing *Buckley v. Valeo*, 424 U.S. 1, 108 (1976) (quoting *Champlin Refining Co. v. Corp. Comm’n of Okla.*, 286 U.S. 210, 234 (1932))).<sup>15</sup> Consequently a severability clause is unnecessary unless it provides in detail which related provisions are to fall, and which are not to fall, if a specified key provision is held invalid. Even when general severability clauses are included, the Supreme Court has viewed them as boilerplate that simplifies the task of the Court.<sup>16</sup>

## SEC. 329. EFFECTIVE DATES.

(a) IN GENERAL.—Unless otherwise provided, legislation takes effect on the date of its enactment. If the policy is to have legislation take effect on the date of its enactment and if there are no other provisions relating to its application that are required, then no effective date provision is needed.

(b) WHEN REQUIRED.—An effective date provision is only required—

(1) if legislation is to take effect on a date other than its date of enactment;  
or

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House, an appropriation is generally valid if enacted into law notwithstanding the absence of an authorization.

<sup>15</sup> The Supreme Court has reaffirmed this approach in more recent cases. *See, e.g., New York v. United States*, 505 U.S. 144 (1992); *Alaska Airlines, Inc. v. Brock*, 480 U.S. 678 (1987); *Seila L. LLC v. Consumer Fin. Prot. Bureau*, 140 S. Ct. 2183 (2020).

<sup>16</sup> *See Seila L. LLC v. Consumer Fin. Prot. Bureau*, 140 S. Ct. 2183, 2209 (2020) (stating that “. . . boilerplate is boilerplate for a reason—because it offers tried-and-true language to ensure a precise and predictable result. That is the case here. The language unmistakably references ‘any provision of this Act.’ 12 U. S. C. §5302 . . . And it appears in a logical and prominent place, immediately following the Act’s title and definitions sections, reinforcing the conclusion that it applies to the entirety of the Act. Congress was not required to laboriously insert duplicative severability clauses, provision by provision, to accomplish its stated objective.”).

(2) if the legislation is to take effect with respect to particular things or events (receipts, offenses, months, etc.).

(c) IN LEGISLATION MAKING AMENDMENTS.—

(1) EFFECTIVE DATE.—If an effective date is required in legislation that makes amendments to existing law, the effective date should be stated as applying to the amendments and not to the legislation. Thus, do not use “this Act shall take effect”; rather, use “the amendments made by sections 2 and 3 shall take effect”. The effective date, then, will be the day upon which the underlying law is actually amended.

(2) UNCERTAIN EFFECTIVE DATE.—Clients will sometimes ask for an effective date for amendments to existing law that are based on another action, such as having the amendments take effect when a Secretary takes a certain action. This should be discouraged because it makes it very difficult for anyone to know the state of the law. If a client insists on this approach, it can be useful to require the relevant Secretary to notify the Law Revision Counsel that the action has been taken so the amendment may be executed. For example, see section 872(c) of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. 1526).

(3) APPLICATION DATE.—

(A) IN GENERAL.—In contrast to paragraph (1)’s effective date, there are cases in which you want to change how the law appears, yet you do not want those changes to go into force until later. For example, if Congress wants to amend a law to change a tuition assistance program for college students, Congress may want the amendments to appear in law immediately so the executive branch can issue regulations but to apply the amendments only to students who enroll in school as of a certain date. Here we would add language such as the following:

“(b) APPLICATION.—The amendments made by subsection (a) shall apply with respect to a quarter, semester, or term, as applicable, commencing on or after [date].”.

(B) DATE CERTAIN IN LAW.—An alternative approach is to include the specified date into the text being added to the underlying law. Such as the following:

“(b) BENEFITS.—Section 3 of the XYZ Act is amended by adding at the end the following new subsection:

“ ‘(g) EXPANSION OF BENEFITS.—Beginning on [date], the Secretary shall provide assistance under subsection (a) to the following:’ .”.

(d) LOCATION.—

(1) IN GENERAL.—Except as noted in paragraph (2), the effective date is in a single section.

(2) SEPARATELY STATE FOR EACH PROVISION.—If there are not one or two rules on effectiveness that apply generally, it may be preferable to incorporate the rules within each substantive provision. They can either be broken out in a separate subdivision or folded into the substantive provision “Effective beginning, . . .”.

## **Subtitle D—Amendments and Repeals**

### **SEC. 331. TYPES OF AMENDMENTS.**

(a) IN GENERAL.—A distinction exists between the drafting of bills that amend statutes and the drafting of amendments to bills (or other amendments) for committee or House floor consideration.

(b) AMENDMENTS TO STATUTES ARE SELF-EXECUTING.—Amendatory bills are drafted on the assumption that the amendments are self-executing, without intervening action by others, and are stated in the indicative mood. Example: “Section 12 of the \_\_\_\_ Act is amended by striking ‘XX’ and inserting ‘YY’.”.

(c) COMMITTEE OR FLOOR AMENDMENTS ARE DIRECTIVE.—Amendments to bills (or to other amendments) are drafted on the assumption that they are instructions to the committee or the House (or to their clerks), and are stated in the imperative mood. Example: “Page 2, beginning on line 13, strike ‘XX’ and insert ‘YY’.”. This assumption condones wider use of general amendments, such as “. . . and redesignate the following sections (and cross-references thereto) accordingly”.

## SEC. 332. AMENDMENTS TO STATUTES.

### (a) FORMAT OPTIONS.—

#### (1) IN GENERAL.—Normally, amendments can be achieved—

(A) by amendment by restatement; or

(B) by cut-and-bite amendments.

The circumstances control which should be used.<sup>17</sup>

#### (2) RESTATEMENT.—

(A) IN GENERAL.—By this method, the Act, section, or other provision is “amended to read as follows:” with the changes incorporated into the text without specific identification of what they are.

(B) FEATURES.—This method has the following three features:

(i) It aids understanding of the effect of the provision as amended.

(ii) It, however, requires a side-by-side comparison with the existing law to locate the specific changes made.

(iii) It also results in the unchanged portions involved appearing in the bill, which is often tactically unacceptable, invites further amendment, and has the legal effect of reenacting the unchanged provisions included in the restatement.

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<sup>17</sup> A third option, not currently used in Federal legislative drafting, is the Ramseyer-like approach used by many State legislatures. (See note 18 for information on Ramseyers.) This approach combines elements of the two approaches mentioned in the text, by amending existing law by restatement, while also showing (through different typefaces or other devices) the changes made to existing law by the amendments. The primary advantage of this approach is readability, without the need for reference to separate codifications or compilations of the law being amended. The primary disadvantage of this approach is the much greater length required in any legislation amending more than a few provisions of existing law.

(3) CUT-AND-BITE.—

(A) IN GENERAL.—

(i) TECHNIQUE.—By this method, the amendment is achieved by specific language striking text, inserting text, or both. It is done, for example, by stating that X is “amended by striking ‘Y’ and inserting ‘Z’”.

(ii) EFFECT.—This approach is the opposite of an amendment by restatement because it—

(I) highlights the particular changes made (unless, as described in subsection (e), the number of changes are so great as to obscure each change); and

(II) avoids the risks caused by including the unchanged language.

However, cut-and-bite amendments require a side-by-side comparison of the amendments and the existing law in order to understand the effect of the amendments.

(B) ADDITION OF CLARIFYING LANGUAGE.—Frequently, a cut-and-bite amendment can be made more understandable by striking (and then reinserting) more material than is technically necessary in cases in which the additional material can provide “context”.

(b) SEQUENCE OF AMENDMENTS IN BILLS THAT AMEND STATUTES.—

(1) ORDER OF IMPORTANCE.—Except as noted in paragraphs (2) and (3), amendments to statutes should be set forth in their relative order of importance or at least in some rational arrangement of subject matter.

(2) GROUPING WITH TECHNICAL AND CONFORMING AMENDMENTS.—Frequently, it is advisable to group the technical and conforming amendments with the related principal amendment to improve the organization and facilitate committee or House floor amendments. As an alternative, the technical and conforming amendments may be located in a general technical and conforming section and be grouped and identified, by use of a heading, as relating to the principal amendment.

(3) STRUCTURE OF AMENDED ACT.—If the number of amendments is large, and they are approximately equal in importance, it may be beneficial to the reader to show them according to the numerical sequence of the sections of the Act amended.

(c) AMENDMENT TERMINOLOGY.—

(1) REFERENCE TO MATTER TO BE STRICKEN.—

(A) OMIT DESCRIPTIVE CHARACTERIZATIONS.—Any descriptive characterization of material to be removed (such as “the word . . .”, “the number . . .”, or “the adverbial phrase . . .”) is surplusage if the material itself is set forth. Example: “Section 5 of the ABC Act is amended by striking ~~the phrase~~ ‘by the Secretary’.”.

(B) METES AND BOUNDS REFERENCE FOR LONG MATERIAL.—

(i) IDENTIFY BEGINNING AND END.—When faced with removing large portions of language and showing all of it does not aid the reader in understanding the legislation, one should strike the language by identifying its beginning and ending. (The ending or beginning can be implicit if it coincides with the ending or beginning of the unit being amended).

(ii) EXAMPLES.—

(I) “Section 5 of the XYZ Act is amended by striking ‘as determined by the Secretary’ and all that follows through ‘opportunity for public comment’.”

(II) “Section 5 of the XYZ Act is amended by striking ‘as determined by the Secretary’ and all that follows.”

(C) DOWN.—In referring to a block of material, the “down”, as in the following, is surplusage: “The ABC Act is amended by striking ‘as determined by the Secretary’ and all that follows ~~down~~ through ‘opportunity for public comment’.”.

(D) OUT.—The “out” in “strike out” is surplusage.



(E) IN LIEU THEREOF.—The “in lieu thereof” in “insert in lieu thereof” is surplusage if the insertion is intended to be made where the striking takes place.

(2) INSERTING OR ADDING.—One “inserts” material within the text of a provision and “adds” it if it is placed at the end of the provision involved.

(3) ADDING MATERIAL AFTER CUT-IN PARAGRAPHS.—Infrequently, it may be necessary when amending a section with cut-in paragraphs to make sure that an addition to the end of the section will not be included in the last paragraph but will appear after it. Use the phrase “is amended by adding after and below [paragraph (3)] the following:” (and be sure to indent it properly). This use of flush-left text, though, should be avoided if possible because it can cause a reader to wonder to which level the language belongs.

(4) IMMEDIATELY.—Avoid using “immediately” to identify where new language is to be placed, since the meaning it intends to provide should already be given by the amendment. Example: “Section 5 of the ABC Act is amended by inserting ~~immediately~~ after ‘good faith’ the following: ‘, as determined by the Secretary,’.”

(5) FOLLOWING.—The word “following” should be as close to the colon as possible. Consequently, the preferable style is “adding at the end the following:”, not “adding the following at the end:”.

(6) THEREOF.—The use of “thereof” as part of a description of the matter amended is redundant. Example: “Section 5 is amended by adding at the end ~~thereof~~ the following:”.

(7) EACH PLACE RATHER THAN EACH TIME.—In the case of changing a term that appears more than once in a provision, “place” rather than “time” is the more accurate way to refer to the locations of the term. Example: “Section 5 is amended by striking ‘X’ each *place* it appears and inserting ‘Y’.”.

(d) CUMULATIVE AMENDMENTS.—If a series of sections or subdivisions are added sequentially to a provision after the first amendment is made, the amendatory language for successive amendments should use one of the following formulations:

(1) EXAMPLE 1.—“Title I is amended by adding after section 123 (as added by section 802 of this Act) the following:”.

(2) EXAMPLE 2.—“Title I (as amended by sections 802 and 803 of this Act) is further amended by adding at the end the following:”.

(3) EXAMPLE 3.—If there are numerous amendments, “Title I (as amended by the preceding provisions of this Act) is further amended by adding at the end the following:”.

The assumption is that the earlier (preceding) amendments have been executed.

(e) SERIAL AMENDMENTS.—

(1) IN GENERAL.—In lists of amendments of more or less equal importance that are made to the same provision, start with “[Subdivision (x)] is amended—” followed by a cut-in list of items each beginning with “by”.

(2) ABUSE OF FORMAT.—The format described in paragraph (1) can be beneficial when its use is limited to a few items. However, as with any drafting device, it creates befuddlement when it is applied in the extreme. One executive agency produced proposed legislation that began “The United States Code is amended—”. This approach would cause substantial Ramseyer problems.<sup>18</sup>

(3) THINK OF THE READER.—In addition to the abuse described in paragraph (2), keep the reader in mind when using a serial list. It is more readable and understandable to break amendments into different provisions rather than just having a serial list, particularly when each amendment is performing a discrete task. This gives you the ability to use headings to explain the opaque cut-and-bites. For example:

“(a) INCREASE IN MONTHLY PAYMENTS.—Section 102(a) of the XYZ Act is amended by striking ‘\$500’ and inserting ‘\$650’.

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<sup>18</sup> A “Ramseyer” is a comparative print required by House Rule XIII, cl. 3 (commonly referred to as the “Ramseyer Rule”), to be included in a committee report accompanying legislation that proposes to repeal or amend an existing statute. The comparative print shows the existing statute, with the deletions and insertions proposed by the legislation shown in different typefaces. The common name for this print derives from the original proponent of the comparative print requirement in 1929, Representative C. William Ramseyer of Iowa.

“(b) EXPANSION OF BENEFICIARIES.—Section 104(b)(1) of such Act is amended by inserting ‘, parent, grandparent,’ before ‘or sibling’.”.

(f) AMENDMENTS TO TABLE OF SECTIONS (AND OTHER TABLES).—

(1) REFERENCE.—The elements of a table of contents (also sometimes called a “table of sections” in positive law titles or an “analysis” in certain transportation related laws), or any other table, are generally referred to as “items” for purposes of amendments or cross-references.

(2) CLERICAL AMENDMENTS.—

(A) HISTORIC PRACTICE.—The longstanding practice has been to directly amend a table of contents to conform the table to any changes made by other amendments in that bill. For example:

“(b) CLERICAL AMENDMENT.—The table of contents at the beginning of such chapter is amended by inserting after the item relating to section 123 the following:

“124. Congressional oversight.”.

(B) MODERN PRACTICES.—A disadvantage to the approach in subparagraph (A) is that often the headings of sections can change during the legislative process, and when drafting large bills under short deadlines, it can be difficult to ensure that all clerical amendments accurately reflect the heading of the section being added. Beginning in 2021, two responses have been developed to address this challenge:

(i) Amend the table of contents through a parenthetical instruction. For example:

“(a) OVERSIGHT.—Chapter 1 of title 123, United States Code, is amended by inserting after section 789 the following new section (and conforming the table of contents at the beginning of such chapter accordingly):”.

(ii) In larger bills that primarily amend one law, include an explanation at the beginning of the bill that all clerical amendments are automatically included. For example (based on section 1(b)(2) of the Honoring our PACT Act of 2022 (Public Law 117–168)):

“(2) AMENDMENTS TO TABLES OF CONTENTS.—Except as otherwise expressly provided, when an amendment made by this Act to title 38, United States Code, adds a section or larger organizational unit to that title, repeals or transfers a section or larger organizational unit in that title, or amends the designation or heading of a section or larger organizational unit in that title, that amendment also shall have the effect of amending any table of sections in that title to alter the table to conform to the changes made by the amendment.”.

(g) MARGIN AND ALIGNMENT AMENDMENTS.—

(1) BY AMENDING TO READ AS FOLLOWS.—This is a traditional approach for—

(A) converting an unsubdivided subsection (or other provision) into a paragraph (or other smaller unit) solely for purposes of being able to add an additional paragraph (or other smaller unit);

(B) correcting the margin of a provision; or

(C) moving a provision from one location to another with the proper margins or indentations and designations.

This approach, though, results in existing statutory language appearing in the amendment (even though unchanged), so it can create problems during the consideration of the legislation as well as result in the reenactment of the language involved (see subsection (a)(2)).

(2) WITHOUT REPEATING THE LANGUAGE.—

(A) SPECIFIED EMS.—It is possible to draft an amendment so that it directly addresses the problem set forth in paragraph (1) without repeating the language. For example, section 2661(m) of the Spending Reduction Act of 1984 (division B of Public Law 98–369; 98 Stat. 1158) provides the following:

“(m) Subparagraph (B) of section 223(c)(1) of such Act is amended by moving clause (iii) two ems to the left, and by moving the preceding provisions of such subparagraph two ems to the right, so that the left margin of such subparagraph and its clauses is indented four ems and is aligned with the margin of subparagraph (A) of such section.”.

(B) ADJUST ACCORDINGLY.—A more modern approach is to forgo specifying the number of ems a provision should be indented and instead to say something to the effect of “and adjust the margins accordingly”. This approach causes the drafter to abdicate responsibility for the resulting margin (and leaves it to the fates of the Law Revision Counsel or other entity that will execute the amendments), but it does allow the drafter to spend more time on the heart of the matter.

## SEC. 333. COMMITTEE AND FLOOR AMENDMENTS.

(a) GENERALLY FOLLOW RULES FOR AMENDMENTS TO STATUTES.—Except as noted in this section, the conventions and usages described in section 332 also apply in the case of any committee or House floor amendment.<sup>19</sup>

(b) SEQUENCE.—The sequence in which multiple amendments are made to a bill or amendment is generally controlled by parliamentary rules (such as the five-minute rule of the House, under which sections are open for amendment only at the time they are read). *See* Charles W. Johnson, et al., *House Practice: A Guide to the Rules, Precedents, and Procedures of the House*, ch. 2, § 15 at 32 (115th Cong. 2017).

(c) PAGE AND LINE NUMBERS.—

(1) GENERAL RULE.—Use page and line numbers whenever possible in making amendments to bills or other amendments (rather than attempting to identify by citation, word reference, or other means).<sup>20</sup>

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<sup>19</sup> Historically, the Office of the Legislative Counsel of the House would deviate from this rule by using “by adding” only when adding material at the actual end of a bill (such as when adding a new section or title at the end), and to use “by inserting” in all other cases in which material is being inserted in a bill (even at the end of a section or title, if not the last section or title in the bill). This quirk, though, has not persisted, and the Office generally follows the traditional “adding” / “inserting” distinction for committee and floor amendments.

<sup>20</sup> Obvious exceptions are the drafting of amendments to a bill or other matter if page or line numbers (1) are not used in the matter being amended, such as in the preamble of a resolution; (2) are not available, such as when drafting a second-degree amendment to another amendment printed in the Congressional Record or in a report submitted by the Committee on Rules; (3) are likely to change before

(2) METHOD OF REFERENCE.—

(A) SIMPLE AMENDMENT.—Use the form “Page 12, [after/before] line 5, [strike/insert/ add]”. Do not use “On [page \_\_]”; it is surplusage.

(B) REMOVAL OF BLOCK OF MATERIAL.—If a block of material is removed, use the form “Page 12, line 16, strike [ ‘YY’ ] and all that follows through page 15, line 11”.

(d) TITLE AMENDMENTS.—For title amendments, use the form “Amend the title so as to read: ‘A bill to . . . ’”. Do not cut-and-bite title amendments. Also note that title amendments are always drafted at the end of an amendment, including an amendment in the nature of a substitute. *See* Charles W. Johnson, et al., *House Practice: A Guide to the Rules, Precedents, and Procedures of the House*, ch. 2, § 48 at 62 (115th Cong. 2017).

## SEC. 334. REPEALS.

(a) “REPEAL” VERSUS “STRIKE”.—Although a repeal and a strike carry the same legal significance, a repeal (the nullification of effectiveness of an otherwise operative provision of law) should generally be reserved for sections or larger units.

(b) REINSTATING REPEALED LAW.—

(1) REPEALING LAW WITH AMENDMENTS TO OTHER LAWS.—Repealing a law that amended another law does not in and of itself amend that other law to its pre-amended state. If the policy is to restore that other law to its pre-amended state, the repeal should state something like the following: “The XYZ Act is repealed, and any provision of law amended or repealed by such Act is restored or revived as if such Act were not enacted into law.”.

(2) REPEAL OF REPEALER.—Section 108 of title 1, United States Code, codifies the “Repeal-of-Repealer” canon and states: “Whenever an Act is

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consideration of the matter in committee or on the House floor, such as when drafting an amendment to a bill that is needed before the final print of the bill is available; or (4) are unlikely to be meaningful, such as when drafting a second-degree amendment to another amendment for which a copy with page and line numbers is not expected to be generally available to Members.

repealed, which repealed a former Act, such former Act shall not thereby be revived, unless it shall be expressly so provided.”.

## **SEC. 335. REDESIGNATIONS.**

(a) **IN GENERAL.**—It is desirable when adding or repealing provisions of existing law that the existing law appears (and functions) as it would have if the amendments had been incorporated into the law when originally enacted. In other words, the provisions should be where they belong pursuant to the logic of the Act, the designation scheme of the Act should be rational and consistent, and there should not be gaps between sections or other provisions. However, there may be factors that weigh against redesignation. One is the volume of redesignation required and the other is described in subsection (b).

(b) **EXCEPTION.**—In certain cases the section number itself becomes inextricably linked to its substance. Section 501(c) of the Internal Revenue Code of 1986 (relating to exemption from tax for certain organizations) and the paragraphs within that subsection are a frequently cited example of provisions that should not be redesignated. The extent of public awareness of the section number and cross-references to it in nonstatutory literature would result in more confusion than the benefits redesignation would create.

(c) **LOCATION IN BILL.**—If both amendments and redesignations are made, it may promote understanding by making the amendments to the existing law before making the redesignations. This avoids the need for the awkward “(as so redesignated)” and makes it easier for the readers to execute amendments to the law they have in front of them.

## **SEC. 336. TRANSFERS.**

(a) **IN GENERAL.**—Like remodeling an old house, sometimes a law needs new space added here, a wall removed there, and other modifications to improve its livability. In these cases, it can be useful to transfer provisions from one location to another. Title IV of division B provides examples of how to draft the transfers described in this section.

(b) **TRANSFERS WITHIN SAME LAW.**—Any provision of a law can be transferred to another location of that law, regardless of its level. For example, a section could be moved from one chapter to another chapter, a subsection could be moved from

one section to another section, or a subsection could be moved from one section and placed into a chapter as a new section.

(c) TRANSFERS BETWEEN LAWS.—Likewise, a provision of one law can be transferred into a different law. This is particularly useful when a provision of law was originally intended to be temporary in nature, but over time keeps being amended and would better serve the public by being codified in a certain law or title of the United States Code.

(d) COMPLICATED TRANSFERS.—If your remodel is more of a complete rebuild, it can be useful to use a table instead of listing each transfer as an amendment instruction.

(e) THINGS TO KEEP IN MIND.—When transferring provisions of law, keep in mind the style of both the original home and the new home. You could, say, take a wing of a Victorian mansion and attach it to a Frank Lloyd Wright prairie house, but should you? If the two laws you are remodeling are of different styles (for example, if you’re moving a section from a freestanding law into a positive law title of the United States Code), you should account for the different formatting (e.g., “Sec. 2” versus “§ 2”). An additional instruction can help smooth over these differences:

“(c) SECTION HEADING TYPEFACE AND TYPESTYLE.—Section 2402 of title 123, United States Code, as added by subsection (a), is amended—

“(1) in the enumerator, by striking ‘SEC.’ and inserting ‘§’; and

“(2) in the section heading—

“(A) by striking the period at the end; and

“(B) by conforming the typeface and typestyle, including capitalization, to the typeface and typestyle as used in the section heading of section 123 of such title.”.



## Subtitle E—References

### SEC. 341. REFERENCES TO STATUTORY PROVISIONS OF LAW.

(a) PURPOSES OF CITATIONS.—The purposes of any citation are to identify briefly a law in an unambiguous manner and to provide finding aids for the reader. In addition, in most cases any description or indication of the subject matter or content of the referenced provision can assist a reader in understanding the workings of the provision at hand and its relationship to the cited law. The following suggested citation methods are both consistent with those purposes and generally consistent with current and historical practice.

(b) BASIC REFERENCES.—

(1) POSITIVE LAW TITLES OF U.S. CODE.—If the provision you are dealing with has been enacted into positive law as part of the United States Code, cite as “section 1234 of title 34, United States Code, . . .”. An exception exists if the provision making the citation is itself within a positive title and it is citing across to another positive law title. In that case “, United States Code,” is omitted.

(2) SHORT TITLE.—If the provision has not been enacted into positive law as part of the United States Code, refer to it by its short title if it has one.

(3) LAWS WITHOUT SHORT TITLES.—If the provision does not have a short title and is not within a positive law title of the United States Code:

(A) PUBLIC LAW NUMBER.—The current Public Law designation system has been in effect since January 1, 1957. In the case of a law enacted after that date, it can be cited by its Public Law number. Example: “Notwithstanding section 153 of Public Law 98–356,”.

(B) LONG TITLE.—If the long title is relatively short and its content would be helpful to the reader, refer to it as “the Act entitled ‘An Act [to . . .]’, approved [date]”. If the reference is to a concurrent resolution or simple resolution the term “adopted” may be used instead of “approved”.

(C) BY ITS ENACTMENT DATE.—If a law was enacted before January 1, 1957, it can be referred to as “the Act of [January 5, 1945,] (33 Stat.

3434)”. Note, however, that in a few instances there are two Acts having the same Statutes at Large citation. In such a case, the parenthetical can be enlarged to include the chapter citation: “. . . (Chapter 883; 33 Stat. 3434)”.

(4) AS AMENDED.—The name of an Act with a short title usually remains the same throughout its life. The phrase “, as amended,” is unnecessary and should be avoided.

(c) U.S. CODE CITATIONS.—

(1) GENERAL RULE.—Remember that historically it is more than likely that the person who reads a provision that you have drafted does not have ready access to compilations, Public Laws, or the Statutes at Large. Consequently, if dealing with a provision that is not within a positive law title of the United States Code, indicate any applicable Code citation.

(2) SOURCE.—Public Laws beginning with the 94th Congress include any applicable United States Code citation for a provision of the Public Law.

(3) EXCEPTION.—The provisions of law that do not appear in the United States Code because they are—

(A) temporary;

(B) private relief or otherwise narrow in scope; or

(C) considered obsolete or executed;

should be cited by their Public Law number, Private Law number, or Statutes at Large citation.

(4) APPENDICES TO U.S. CODE.—In parenthetical United States Code citations to appendices to titles of the United States Code, use the style “(5 U.S.C. App.)”.

(5) RECENT ENACTMENTS.—One problem frequently encountered is how to cite a recent law for which the slip law is not yet available. If the Law Revision Counsel has updated the United States Code classification table, you can use that to find any relevant United States Code citations. If not, cite only the Public Law number.

(d) **POPULAR NAMES.**—In the case of a nonpositive law Act without a short title but with a generally known popular name, the popular name may be included in the parenthetical reference if it would aid the reader. Example: “section 343 of Public Law 91–353 (9 U.S.C. 343; commonly known as the ‘Chappell-Bell Act’)”.

(e) **REFERENCES WITHIN AN ACT OR SECTION.**—Omit “of this Act”, “of this section”, or similar references unless another Act or provision is also made reference to, and clarity would be increased by including the phrase.

(f) **REFERENCES TO COMPONENTS OF A SECTION.**—

(1) **REFERENCE BASED ON A PROVISION’S ALPHABETICAL OR NUMERICAL DESIGNATION.**—For uniformity, refer to any separately indented provision on the basis of its class designation. For example, indented items within the class designated “(1), (2), (3) . . .” should be consistently referred to as paragraphs; and indented items within the class designated “(A), (B), (C) . . .” should be consistently referred to as subparagraphs. However, if “(1)” or “(A)” is not indented, then it is always referred to as a clause or subclause. But note that some old laws have different designations and it may be confusing not to follow those designations. For example, the Federal Food, Drug, and Cosmetic Act consistently refers to units beginning “(a)”, etc. as paragraphs.

(2) **REFERENCE TO MORE THAN ONE UNIT.**—If the reference is to more than one unit, the reference is to the senior unit. Thus, refer to section 5(a)(1) and not paragraph 5(a)(1).

(3) **MULTIPLE BREAKDOWNS.**—

(A) **IN GENERAL.**—For clarity and brevity’s sake, “section 503(b)(2)(A)(i) of the XYZ Act” is preferred to “clause (i) of subparagraph (A) of paragraph (2) of subsection (b) of section 503 of the XYZ Act”.

(B) **EXCEPTIONS.**—

(i) **IN AMENDMENTS.**—When amending section 503(b)(2)(A)(i), the amendment may be stated as an amendment to clause (i) of section 503(b)(2)(A).

(ii) **LATER REFERENCE.**—It may also be beneficial to cite to “clause (i) of section 503(b)(2)(A) of the XYZ Act” if a later reference is to be made back to “such clause”.

(iii) **JOINT REFERENCES.**—Similarly, it is easier to understand a citation to two or more provisions if cited “clauses (i) and (ii) of section 503(b)(2)(A) of the XYZ Act” rather than “section 503(b)(2)(A)(i) and (ii) of the XYZ Act”.

(g) **CONSOLIDATED CITATIONS.**—In a lengthy bill (or title) consisting entirely or mostly of amendments to one law, the following reference convention is often a desirable alternative to repeating the full citation:

“(a) **AMENDMENTS TO XYZ ACT.**—[Except as otherwise specifically provided,] whenever in this [provision] a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the XYZ Act.”.

(h) **ABBREVIATED CITATION.**—Once a reference is made to a provision, that same provision can be referred to again later in the same section (if not too far removed) by “such” rather than repeating the reference.

## **SEC. 342. REFERENCES TO OTHER LAW.**

(a) **TREATIES AND OTHER INTERNATIONAL AGREEMENTS.**—

(1) **GENERALLY.**—Both treaties and other international agreements are cited by the name of the agreement (including the names of the countries in the case of bilateral agreements), together with—

(A) either a reference to the location and time of signing or a reference to when it became applicable to the United States (whichever is more appropriate for the agreement and context); and

(B) if feasible, a finding aid consisting of either a citation to the “United States Treaties and Other International Agreements” (UST cite), which is comparable to a Statutes at Large citation, or to the “Treaties and Other International Acts Series” (TIAS cite), which is comparable to a Public Law citation.

## (2) EXAMPLES.—

(A) The Convention on the Territorial Sea and the Contiguous Zone, signed at Geneva on April 29, 1958 (TIAS 5639).

(B) The Seabed Arms Control Treaty (entered into force with respect to the United States on May 18, 1972; 23 UST 701).

(C) The Joint Comprehensive Plan of Action, signed at Vienna on July 14, 2015, by Iran and by the People’s Republic of China, France, Germany, the Russian Federation, the United Kingdom and the United States, with the High Representative of the European Union for Foreign Affairs and Security Policy, and all implementing materials and agreements related to the Joint Comprehensive Plan of Action.

(D) The decision by the United Nations Framework Convention on Climate Change’s 21st Conference of Parities in Paris, France, adopted on December 12, 2015 (commonly referred to as the “Paris Agreement”).

(3) IF PRINTED IN U.S. CODE.—A few important treaties that affect Federal statutes are printed in the United States Code. In such cases, it is helpful to include a U.S.C. citation: “the Universal Copyright Convention (as revised at Paris on July 24, 1971; 25 UST 1341; 17 U.S.C. 104 note)”.

## (b) EXECUTIVE ORDERS.—

(1) APPEARING IN U.S. CODE.—If making reference to a specific Executive order of the President, cite as “Executive Order 10577 (5 U.S.C. 3301 note; relating to civil service rules)”.

(2) NOT IN U.S. CODE.—If the order does not appear as a notation within the United States Code, cite to the Federal Register: “(19 Fed. Reg. 7521; relating to . . . )”. Note that if, by reason of amendment, the provisions involved appear in more than one place, cite to each: “(19 Fed. Reg. 7521; 20 Fed. Reg. 8137)”.

(3) RELATING TO . . . .—In describing what subject the Executive order relates to in the parenthetical citation, it can often be useful to just copy the title of the Executive order.

(c) REGULATIONS.—

(1) GENERALLY.—In most cases, regulations should be cited as follows: “section 73.658(j)(i) of title 47, Code of Federal Regulations”.

(2) EXCEPTIONS.—It can be helpful in certain cases to deviate from the basic approach in paragraph (1) in a manner that recognizes how the regulation is discussed outside the stuffy confines of statutes:

(A) In cases where the regulation is regularly referred to by a standard name in common parlance, the reference could include that name, such as: “section 73.658(j)(i) of title 47, Code of Federal Regulations (commonly known as the ‘Network Syndication Rule’),”.

(B) In cases where the regulation carries its own method of identification that has greater currency than the Code of Federal Regulations section number, the reference could lead with that method of identification, such as: “Federal motor vehicle safety standard numbered 208 (49 C.F.R. 571.208; relating to occupant crash protection)”.

(d) HOUSE RULES.—The House Rules have the following breakdown and designations:

- (1) Rule (starting with I).
- (2) Clause (starting with 1).
- (3) Paragraph (starting with (a)).
- (4) Subparagraph (starting with (1)).
- (5) Subdivision (starting with (A)).

## Subtitle F—Other Special Rules

### SEC. 351. SPECIAL RULES.

(a) INTRODUCTION.—It is expected that the traditional rules of grammar and usage will apply in the drafting of legislation.<sup>21</sup> However, deviations from those rules may be justified because of the style or content of a draft. What follows is a discussion of how certain rules are to be applied.

#### (b) REFERENCES TO NUMBERS.—

(1) IN GENERAL.—Cardinal or ordinal numbers can be expressed either as words or Arabic numerals as the drafter thinks best so long as the draft is consistent.

(2) SHUN DOUBLE EXPRESSIONS.—Some legal writers express numbers both by words and Arabic numerals, such as “sixty-five (65)”. Once is enough.

(3) FRACTIONS.—The rules under paragraphs (1) and (2) regarding the use of figures also apply to fractions.

#### (c) REFERENCES TO TIME AND PERIODS.—

(1) PERIODS.—When referring to an activity required or authorized during a period after some stated event, it is best to say “Not later than . . .” rather than “Within . . .”. The use of “within” creates uncertainty about whether the activity is to precede or follow the event, or both.

(2) FISCAL YEAR.—Refer to the “fiscal year 2020” rather than the “fiscal year ending September 30, 2020.”<sup>22</sup>

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<sup>21</sup> The Office of the Legislative Counsel of the House generally follows the United States Government Publishing Office Style Manual.

<sup>22</sup> See 31 U.S.C. 1102 (“The fiscal year of the Treasury begins on October 1 of each year and ends on September 30 of the following year.”).

(d) PUNCTUATION.—

(1) LISTS.—

(A) FOLLOWING A DASH.—If the list is preceded by a dash—

- (i) the item is paragraphed and its margin is indented;
- (ii) the first word in each item in the list is lowercase (unless a proper noun);
- (iii) each item (other than the last item) ends with a comma or semicolon (commas are used extensively in the Internal Revenue Code instead of semicolons; elsewhere in law, a comma is appropriate when the list is a formula or there is flush-left text following the list); and
- (iv) the conjunction “and” or “or” appears at the end of the next-to-last item only.

(B) FOLLOWING A COLON.—If the list is preceded by a colon, each of the following guidelines applies:

- (i) The item is paragraphed and its margin is indented.
- (ii) The first word in each item in the list is capitalized.
- (iii) Each item ends with a period.
- (iv) The collective or separate nature of the items is expressed in the lead-in material.

(2) COLONS.—When stating “as follows” or any variation of it, use a colon.

(3) COMMAS.—

(A) SERIAL COMMA.—The last two elements of a series should be separated by a comma before the conjunction. This prevents any misreading that the last item is part of the preceding one.



(B) SERIAL LIST COMMA.—If there is any concern to the contrary, the last element of a list that precedes a modifying phrase should be followed by a comma if the modifying phrase applies to each of the items listed. For example, “The store sold apples, oranges, and bananas, imported from Peru” if each fruit came from Peru. As explained in section 102(g), while a good drafter should be aware of, but not controlled by, the myriad canons of statutory interpretation, the Supreme Court has in recent years applied either the rule of the last antecedent or the countervailing series-qualifier canon to determine whether a modifying phrase indeed applies to the whole list. When in doubt, the comma will ensure a consistent application of the modifier to all items in the list.<sup>23</sup> If the desired result is that the modifying phrase should only apply to the last item, it is often useful to break the provision into a list described in paragraph (1), or if that’s not possible, to repeat the conjunction (“The store sold apples and oranges, and bananas imported from Peru.”).

(4) PERIODS AND QUOTATION MARKS.—When inserting quoted material, any punctuation that is to be included at the end of (and as a part of) the quoted material should appear within the quotes. Any punctuation after the quoted material that is a part of the amending sentence (and not a part of the quoted material itself) should appear after the closing quotation marks.

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<sup>23</sup> See *Lockhart v. United States*, 577 U.S. 347, 349 (2016) (“This Court has applied the [rule of the last antecedent] from our earliest decisions to our more recent. [citations omitted] The rule reflects the basic intuition that when a modifier appears at the end of a list, it is easier to apply that modifier only to the item directly before it. That is particularly true where it takes more than a little mental energy to process the individual entries in the list, making it a heavy lift to carry the modifier across them all.”). But see *Facebook, Inc. v. Duguid*, 141 S. Ct. 1163 (2021) (“Under conventional rules of grammar, ‘[w]hen there is a straightforward, parallel construction that involves all nouns or verbs in a series,’ a modifier at the end of the list ‘normally applies to the entire series.’ A. Scalia & B. Garner, *Reading Law: The Interpretation of Legal Texts* 147 (2012) (Scalia & Garner) (quotation modified). The Court often applies this interpretative rule, usually referred to as the ‘series-qualifier canon’. [citations omitted] This canon generally reflects the most natural reading of a sentence. . . . The rule of the last antecedent is context dependent. This Court has declined to apply the rule where, like here, the modifying clause appears after an integrated list. [citations omitted]”).

## (e) VERBS.—

(1) PROHIBITION.—If a prohibition is intended, put the prohibition in the verb (rather than in the subject). Example: “A person may not submit an application after” is preferable, in logic and grammar, to “No person may submit an application after”.

(2) ACTIVE OR PASSIVE.—Use the active instead of passive voice unless the actor cannot be identified or the statement is intended to be universal. The use of the passive in “Proceeds derived from such sale shall be deposited into the Treasury” obscures whose proceeds are covered and who bears responsibility for making the deposits.

## (f) TENSE.—

(1) GENERAL RULE.—Whenever possible, use the present tense and avoid the future and past tense.

(2) EXCEPTION.—When expressing time relationships, there may be cases in which it may be appropriate to use the present tense for facts contemporary with the law’s operation and then the past (or future) tense for facts that must precede (or follow) its operation. However, even in such cases, it is preferable to remain in the present tense throughout and express the temporal relationships explicitly rather than by means of the verb tense.

## (g) NUMBER.—

(1) THE SINGULAR IS NOT LIMITING.—Avoid plurals.<sup>24</sup> A statute speaks to each who is subject to it. If any doubt exists that it could be read to not apply to all, use “each” or “every” instead of “a” or “any” in accordance with subsection (i)(3).

(2) SINGULAR NOUNS REDUCE AMBIGUITY.—The clearest expression, even of complex policies, uses singular rather than plural nouns, if for no other reason than it cuts out one unnecessary layer of possible relationships. “An employee who . . .” works the same as “Employees who . . .” yet it avoids any misreading that—

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<sup>24</sup> See 1 U.S.C. 1 (“words importing the singular include and apply to several persons, parties, or things; words importing the plural include the singular”).

(A) an implicit precondition exists that two employees must be involved before either gets covered; or

(B) the statement only applies to a group of employees, as such.

(h) GENDER.—Use gender-neutral language. The preferred method is to repeat the noun (or find a gender-neutral synonym) rather than using a personal pronoun (or a combination of personal pronouns).

(i) WORD CHOICE.—

(1) STATUTORILY DEFINED WORDS.—A drafter should be aware of the rules contained in section 1 of title 1, United States Code, regarding terminology. Especially useful is the definition of the term “person”. (The rule on gender, while helpful in reading older laws, is not relevant for drafting new bills in light of subsection (h) of this section.)

(2) MAY AND SHALL.—

(A) USE IN THE POSITIVE.—For granting a right, privilege, or power, use “may” (rather than “authorized” or “empowered”). For directing that action be taken, use “shall” (rather than “authorized and directed” or “must”). To distinguish the case in which authority granted elsewhere is required to be exercised by the provision at hand, the provision can state “shall, under section \_\_\_, do \_\_\_”.

(B) USE IN THE NEGATIVE.—The modern approach is to typically use “may not” for denying a right, privilege, or power, or to prohibit an action. Historically, there has been a distinction between “may not” and “shall not”, where the former is for denying a right, privilege, or power, and the latter for directing that an action not be taken. This historical distinction introduces scenarios in which “shall not” speaks to the person subject to the prohibition and is silent as to whether an act done by a person in violation of the prohibition is nevertheless valid (particularly as to an innocent third party). If that is of legal or political concern, then the question of the validity of such action should be explicitly addressed.

(3) ANY AND EACH.—Use only when necessary for special emphasis. Preferred style is “a” or “an”. Use “any” with “may”, and “each” with “shall”.

(4) **SUCH.**—Use in a demonstrative sense to refer to an antecedent, but use with restraint. Avoid “such” if “the” works equally well.

(5) **PROVISOS.**—“Provided” and its associates, “Provided, however” and “Provided, further”, are archaic and are exceedingly rare outside of an appropriations Act. The use of the term “provided” indicates that a condition is being stated. However, provisos are not limited to conditions. They are also used to state exceptions or unrelated provisions. In addition, provisos make sentences very long. The Law Revision Counsel will not use them in the United States Code. As appropriate, use “except that” or “but” instead, or start a new sentence.

(6) **MEANS AND INCLUDES.**—

(A) **IN GENERAL.**—In definitions, “means” should be used for establishing complete meanings and “includes” when the purpose is to make clear that a term includes a specific matter.

(B) **BUT NOT LIMITED TO.**—Since “includes” and its derivatives are not exhaustive, following it with “, but is not limited to,” is redundant and invites misinterpretations elsewhere unless used consistently within a bill.<sup>25</sup>

(7) **BY, UNDER, AND PURSUANT TO.**—The general rule respecting the use of these words is that—

(A) if the result is achieved by the provision itself, use “by”;

(B) if the result occurs through action required or permitted by the provision, use “under”; and

(C) if the result is more remotely derived from the authority of the provision, use “pursuant to”.

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<sup>25</sup> This approach follows from the normal dictionary meaning of the term “includes”, rather than any generally applicable definition of the term established in title 1, United States Code. However, some laws have included a statutory definition for purposes of the use of the term within those laws. *See, e.g.*, section 7701(c) of the Internal Revenue Code of 1986 (26 U.S.C. 7701(c)); 10 U.S.C. 101(f)(4); and section 1101(b) of the Social Security Act (42 U.S.C. 1301(b)).

(8) **HEREBY.**—The term “hereby” is usually redundant. Use it only when the reader might otherwise think that the language involved simply declares the existing situation without *doing* anything itself.

(9) **IF, WHEN, AND WHERE.**—The term “if” has the most universal application. However, there are contexts in which “when” and “where” are appropriate. “When” implies a condition as to time and “where” a condition as to place.

(10) **DEEM, TREAT, AND CONSIDER.**—Use “considers” rather than “deems” to indicate an exercise of judgment. Use “shall treat” or “is deemed” for legal fictions.

(j) **KNOWING WHEN TO DEVIATE.**—As George Orwell instructed in his *Politics and the English Language*, “Break any of these rules sooner than say anything outright barbarous.”. For example, the Office of the Legislative Counsel of the House tends to follow a “when in Rome” rule whereby if you are amending an archaic law, your new language should conform to the old law’s language. However, if that old law uses outmoded language that would not be acceptable to a modern audience, your new language should use modern language and attempt to modernize the old language if possible.

## **DIVISION B—APPENDIX**

### **TITLE IV—TRANSFERS**

#### **SEC. 401. TRANSFER OF PROVISIONS FROM ONE PART OF A LAW TO ANOTHER PART OF THE SAME LAW.**

(a) **TRANSFER OF SECTION.**—Here is an example of transferring a section:

“(a) **TRANSFER.**—Title 123, United States Code, is amended as follows:

“(1) Section 2309 is—

“(A) transferred to chapter 24 of such title;

“(B) inserted after section 2401 of such title; and

“(C) redesignated as section 2402.

“(2) The table of sections at the beginning of chapter 23 is amended by striking the item relating to section 2309.

“(3) The table of sections at the beginning of chapter 24 is amended to conform to the amendments made by this subsection.”.

(b) TRANSFER OF SUBSECTION.—Here is an example transferring a subsection:

“(a) TRANSFER.—Chapter 24 of title 123, United States Code, is amended as follows:

“(1) Subsection (g) of section 2401 is—

“(A) transferred to section 2404 of such chapter;

“(B) inserted after subsection (d); and

“(C) redesignated as subsection (e).

“(2) Such section 2401 is amended by redesignating subsection (h) as subsection (g).”.

(c) PROMOTION OF A SUBSECTION.—Here is an example of promoting a subsection:

“(a) TRANSFER.—Chapter 24 of title 123, United States Code, is amended as follows:

“(1) Subsection (g) of section 2401—

“(A) is transferred to the end of such chapter; and

“(B) is designated as section 2404.

“(2) Section 2404, as designated by paragraph (1), is amended by redesignating paragraphs (1) and (2) as subsections (a) and (b), respectively.

“(3) Each provision of such section 2404 is amended to adjust the margins accordingly.

“(4) The table of sections at the beginning of such chapter is amended to conform to the amendments made by this subsection.”.

## **SEC. 402. TRANSFER PROVISION FROM ONE LAW TO A DIFFERENT LAW.**

Transferring a provision between different laws is similar to the method shown in section 401:

“(a) TRANSFER.—Section 789 of the XYZ Act is—

“(1) transferred to chapter 24 of title 123, United States Code;

“(2) inserted after section 2401 of such title; and

“(3) redesignated as section 2402.

“(b) CLERICAL AMENDMENT.—The table of contents at the beginning of such Act is amended to conform to the amendments made by subsection (a).”.

## **SEC. 403. USE OF TABLE FOR MORE COMPLICATED TRANSFERS.**

The Frank LoBiondo Coast Guard Authorization Act of 2018 (Public Law 115–282) states:

“(b) REDESIGNATIONS AND TRANSFERS.—

“(1) REQUIREMENT.—The sections of title 14, United States Code, identified in the table provided in paragraph (2) are amended—

“(A) by redesignating the sections as described in the table; and

“(B) by transferring the sections, as necessary, so that the sections appear after the table of sections for chapter 1 of such title (as added by subsection (a)), in the order in which the sections are presented in the table.

“(2) TABLE.—The table referred to in paragraph (1) is the following:

Title 14 section number before redesignation	Section heading (provided for identification purposes only-not amended)	Title 14 section number after redesignation
1	Establishment of Coast Guard	101
2	Primary duties	102
3	Department in which the Coast Guard operates	103
652	Removing restrictions	104
4	Secretary defined	105
5	Commandant defined	106

## **TITLE V—PROVISIONS FROM PRIOR EDITIONS**

### **SEC. 501. FOREWORD (ORIGINAL EDITION OF FEBRUARY 28, 1989).**

This manual has been prepared by attorneys in the Office of the Legislative Counsel of the United States House of Representatives primarily—

- (1) to assist in the training of new attorneys in that Office; and
- (2) to promote greater stylistic uniformity in the work product of that Office.

However, it is hoped that it may also serve as the basis for discussions with other persons interested in legislative drafting with the goal of achieving greater stylistic uniformity in our Federal laws.

This manual is in no sense a treatise on how to draft a law. Instead it is intended for those who are undergoing, or have undergone, on-the-job drafting training under the supervision of expert drafters.

### **SEC. 502. HISTORICAL NOTES ON OFFICE STYLE.**

The first edition of this manual faced problems that largely do not exist as of 2022: to explain why there is an Office style and how to convince others to adhere to it. This Appendix sets out the original provisions of the manual that addressed these problems with their original section numbers:

#### **“SEC. 202. WHY THE OFFICE STYLE WAS CHOSEN.**

“A variety of drafting styles exist today, each with its own attributes. Assuming that a uniform style in legislative language is a worthwhile goal, why did the House Legislative Counsel’s Office adopt the particular style that is set forth in this manual? The Office style, while not the style most prevalently used in the past, has the following major advantages:



“(1) WIDE ARC.—It embraces the widest range and variety of drafting tools and conventions. On the one hand, it can be used full-bore to promote the clear expression of complex policies. On the other hand, it can be applied in a limited way in the expression of less complex policies.

“(2) PROVIDES OPTIONS.—Because of the structural principles it embodies and its variety of drafting conventions, it provides the drafter the maximum options and flexibility within a uniform style.

“(3) PROMOTES STANDARD.—In addition, because of its formatting and other features, it provides a good basis for developing, through the collective efforts of the House Legislative Counsel’s Office, the Senate Legislative Counsel’s Office, and other drafters, a standard Federal style for legislation.

**“SEC. 204. EXAMPLES OF SECTION DRAFTED IN AN OLD STYLE AND REDRAFTED USING OFFICE STYLE.**

“The following shows a section drafted in a style widely used in the past and the same legislative proposal drafted in the newer Office style:

“(1) Example 1 (Old style).—

“ ‘REIMPOSITION ON PRICE CONTROLS

“ ‘SEC. 103. (a) Section 122(b)(1) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3332(b)(1)) is amended by striking out ‘may not take effect earlier than July 1, 1985,’ and inserting in lieu thereof ‘may not take effect before the twenty-fourth month that begins after the effective date of the Natural Gas Market Policy Act’.

“ ‘(b) (1) Section 507 of such Act (15 U.S.C. 3417) is amended by striking out ‘concurrent resolution’ each place it appears and inserting in lieu thereof ‘joint resolution’.

“ ‘(2) Section 507(d) of such Act (15 U.S.C. 3417(d)) is amended by adding at the end thereof the following:

“ ‘(7) If one House receives from the other House a resolution, then—

“ ‘(A) if, at the time of such receipt, a committee of the House has reported, or has been discharged from further consideration of a

resolution, then the resolution received from the other House shall not be referred to any committee, and on any vote on final passage of the reported or discharged resolution, a motion shall be in order to substitute the resolution received from the other House; or

“ ‘(B) if, at the time of such receipt, any committee of the House has not reported, or has been discharged from further consideration of a resolution, then the resolution received from the other House shall be referred in accordance with otherwise applicable rules, and, if a committee to which a resolution is referred under this subparagraph does not report such resolution before the end of the period of fifteen legislative days after such referral, it shall be in order to move to discharge such committee from further consideration of such resolution and paragraph (3) shall apply to any such motion to discharge.’ ’ .”.

“(2) Example 2 (Office style).—

“ **‘SEC. 103. REIMPOSITION OF PRICE CONTROLS.**

“ ‘(a) CONTROL PERIOD POSTPONED UNTIL 24 MONTHS AFTER EFFECTIVE DATE.—Section 122(b)(1) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3332(b)(1)), relating to limitations on reimposition, is amended by striking ‘may not take effect earlier than July 1, 1985,’ and inserting ‘may not take effect before the 24th month that begins after the effective date of the Natural Gas Market Policy Act’.

“ ‘(b) TECHNICAL AMENDMENTS.—

“ ‘(1) APPROVAL BY JOINT RATHER THAN CONCURRENT RESOLUTION.—Section 507 of such Act (15 U.S.C. 3417) is amended by striking ‘concurrent resolution’ each place it appears and inserting ‘joint resolution’.

“ ‘(2) PROCEDURES.—Section 507(d) of such Act (15 U.S.C. 3417(d)) is amended by adding at the end the following:

“ ‘(7) COORDINATION OF HOUSE AND SENATE ACTIONS.—

“ ‘(A) IN GENERAL.—If one House receives from the other House a resolution, then the procedure established in this paragraph shall apply.

“ ‘(B) IF HOUSE HAS ACTED.—

“ ‘(i) NONREFERRAL.—If, at the time of such receipt, a committee of the House has reported, or has been discharged from further consideration of a resolution, then the resolution received from the other House shall not be referred to any committee.

“ ‘(ii) SUBSTITUTION.—On any vote on final passage of the reported or discharged resolution, a motion shall be in order to substitute the resolution received from the other House.

“ ‘(C) IF HOUSE HAS NOT ACTED.—

“ ‘(i) REFERRAL.—If, at the time of such receipt, any committee of the House has not reported, or has been discharged from further consideration of a resolution, then the resolution received from the other House shall be referred in accordance with otherwise applicable rules.

“ ‘(ii) DISCHARGE.—If a committee to which a resolution is referred under clause (i) does not report such resolution before the end of the period of 15 legislative days after the date of such referral—

“ ‘(I) it shall be in order to move to discharge such committee from further consideration of such resolution; and

“ ‘(II) paragraph (3) shall apply to any such motion to discharge.’ ”.

*Note:* Examples of the Office style in this document reflect all of the specific drafting conventions that are set forth in title III, whether or not (in any particular case) the conventions involved are related to the point being made by the example.’ ”.

## **TITLE VI—ACKNOWLEDGMENTS**

### **SEC. 601. ACKNOWLEDGMENTS.**

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