

**LEGISLATIVE DRAFTING  
MANUAL**

**OFFICE OF THE LEGISLATIVE  
COUNSEL**

**UNITED STATES SENATE**

FEBRUARY 1997



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# **TITLE I—GENERAL DRAFTING PRINCIPLES**

## **Subtitle A—Fundamental Rules**

### **SEC. 101. ORGANIZATION OF A DRAFT.**

A draft bill or amendment to a bill should be well organized. Always keep the organization of a draft in mind when working with its individual provisions.

### **SEC. 102. BREVITY.**

Use short, simple sentences rather than complex or compound sentences. If a shorter term is as good as a longer term, use the shorter term.

### **SEC. 103. VERBS.**

(a) **TENSE.**—Always use the present tense unless the provision addresses only the past, the future, or a sequence of events that requires use of a different tense. A legislative provision speaks as of any date on which it is read (rather than as of when drafted, enacted, or put into effect).

(b) **VOICE.**—

(1) **IN GENERAL.**—Avoid using the passive voice unless the actor cannot be identified.

(2) **FORM.**—The use of the passive in “appropriate actions shall be taken to carry out the pro-

gram” obscures who bears responsibility for taking the action. The correct form is as follows: “The Secretary shall take appropriate actions to carry out the program.”.

#### SEC. 104. NOUNS.

(a) NUMBER.—A subject, direct object, or other noun should be expressed in the singular. The singular includes the plural (see section 1 of title 1, United States Code).

#### (b) APPLICABILITY.—

(1) IN GENERAL.—A legislative provision speaks to each individual or entity subject to the provision. Generally, “a” or “an” should precede a noun (if an indefinite article is needed at all).

(2) EACH AND ANY.—If there is any possibility that a provision could be read to apply to fewer than all of the members of the class of individuals or entities described in the provision, in place of the indefinite article—

(A) use “each” with “shall”; and

(B) use “any” with “may”.

(3) RATIONALE.—Use of the singular eliminates an unnecessary layer of possible relationships. “Any employee who . . .” works the same as “Employees who . . .”, yet it avoids any misreading that—

(A) an implicit precondition exists that 2 employees must be involved before either gets covered; or

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

(c) PRONOUNS.—

(1) IN GENERAL.—Avoid pronouns, especially pronouns in the possessive.

(2) GENDER.—Use gender-neutral terms. The preferred method is to repeat the noun rather than use a personal pronoun (or “he/she” or “his/her”).

#### **SEC. 105. WORD CHOICE.**

(a) CONSISTENT USAGE.—Do not use different words in a single bill or statute to refer to the same thing. A court presumes that different words have different meanings. Similarly, do not use the same word in 2 different senses in the same bill or statute.

(b) SURPLUSAGE.—In interpreting a statute, a court presumes that every word is there for a reason. If a provision would have the same meaning if a word were deleted, delete the word.

(c) ENGLISH RATHER THAN LATIN.—Use English rather than Latin.

#### **SEC. 106. DEFINED TERMS.**

(a) IN GENERAL.—The use of defined terms promotes clarity, brevity, and consistency. If a term express-

ing a concept is used in a sense other than the sense in which the term is commonly understood and the term is used more than once or twice in the draft, choose a term to describe the concept and define the term in accordance with section 125.

(b) **STATUTORILY DEFINED WORDS.**—Be aware of the rules contained in chapter 1 of title 1, United States Code, regarding terminology. Especially useful is the definition of the term “person”.

**SEC. 107. FOCUS ON READER.**

A draft must be understandable to the reader. The rules in this manual should be applied in a manner that makes the draft clearer and easier to understand.

## Subtitle B—Organization

### SEC. 111. ORGANIZATION OF A BILL.

(a) SINGLE SUBJECT MATTER BILL.—A bill that addresses a single subject matter contains some or all of the following provisions and may be organized as follows:

- 1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REF-
- 2 ERENCES.
- 3 SEC. 2. FINDINGS AND PURPOSES.
- 4 SEC. 3. DEFINITIONS.
- 5 SEC. 4. BASIC PROGRAM AUTHORITY OR ESTABLISH-
- 6 MENT OF OFFICE.
- 7 SEC. 5. ADMINISTRATIVE PROVISIONS.
- 8 SEC. 6. REGULATIONS.
- 9 SEC. 7. CIVIL PENALTIES.
- 10 SEC. 8. CRIMINAL PENALTIES.
- 11 SEC. 9. REPORTS.
- 12 SEC. 10. AUTHORIZATION OF APPROPRIATIONS.
- 13 SEC. 11. CONFORMING AMENDMENTS.
- 14 SEC. 12. TRANSITION RULES AND SAVINGS PROVI-
- 15 SIONS.
- 16 SEC. 13. EFFECTIVE DATE (AND TERMINATION OF AU-
- 17 THORITY, IF APPLICABLE).

(b) COMPLEX BILL.—A long bill or a bill that addresses more than 1 subject matter contains some or all of the following provisions and is organized as follows:

- 1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REF-  
2 ERENCES.  
3 SEC. 2. FINDINGS AND PURPOSES.  
4 SEC. 3. DEFINITIONS.

5 TITLE I—MAJOR LEGISLATIVE  
6 COMPONENT

7 SEC. 1001.

8 Subtitle A—

9 SEC. 1101.

10 CHAPTER 1—

11 SEC. 1111.

12 Subchapter A—

13 SEC. 1121.

14 PART I—

15 SEC. 1131.

16 Subpart A—

17 SEC. 1141.

18 Subtitle B—

19 SEC. 1201.

20 TITLE II—MAJOR LEGISLATIVE  
21 COMPONENT

22 SEC. 2001.

23 SEC. 2002.

24 SEC. 2003.

**SEC. 112. ORGANIZATION OF A SECTION.**

(a) IN GENERAL.—A section contains some or all of  
the following provisions and is organized as follows:

25 SEC. 101. SECTION HEADING.

26 (a) DEFINITIONS.—

27 (b) GENERAL RULE.—

28 (c) EXCEPTIONS.—

29 (d) SPECIAL RULES.—

30 (e) TRANSITION RULES.—

31 (f) EFFECTIVE DATE.—

(b) SECTION BREAKDOWN.—A section is subdivided and indented as follows:

- 1           (a) SUBSECTION.—
- 2               (1) PARAGRAPH.—
- 3                   (A) SUBPARAGRAPH.—
- 4                       (i) CLAUSE.—
- 5                           (I) SUBCLAUSE.—
- 6                               (aa) ITEM.—[To be avoided].
- 7                                   (AA) SUBITEM.—[To
- 8                                       be avoided].

(c) SINGLE CONCEPT.—Each subdivision of a draft should express a single concept.

(d) CUT-INS FOLLOWED BY FLUSH LANGUAGE.—

(1) IN GENERAL.—Text in the following form is referred to as a cut-in followed by flush language (i.e., text printed flush to the margin):

- 9           (a) CRITERIA FOR AWARD.—If the Secretary finds that—
- 10               (1) the project will protect the environment in accord-
- 11               ance with the requirements of this Act; and
- 12               (2) the applicant has the technical expertise necessary
- 13               to carry out the project;
- 14           the Secretary shall award a grant to the applicant.

(2) AVOIDANCE.—Avoid using a cut-in followed by flush language, because doing so makes it difficult to amend the provision later.

(3) CORRECT FORM.—The example given in paragraph (1) should be redrafted as follows:

- 15           (a) CRITERIA FOR AWARD.—The Secretary shall award a
- 16           grant to the applicant if the Secretary finds that—

- 1           (1) the project will protect the environment in accord-  
2           ance with the requirements of this Act; and  
3           (2) the applicant has the technical expertise necessary  
4           to carry out the project.

(e) MULTIPLE CUT-INS.—

(1) INCORRECT FORM.—The following form should not be used—

(A) for the reason stated in subsection (d);  
and

(B) because there is no sensible method of naming the subdivisions that are designated (A) and (B):

(a) SUBDIVISIONS.—A drafter often finds the need for subdivisions. Subdivisions may take the form of—

- (1) paragraphs; or
- (2) other subdivisions.

A drafter often uses multiple subdivisions in complex legislation. Such subdivisions are often found in—

- (A) the Social Security Act; and
- (B) the Internal Revenue Code of 1986.

(2) CORRECT FORM.—The example should be restated as follows:

(a) SUBDIVISIONS.—

(1) IN GENERAL.—A subdivision may take the form of—

- (A) a paragraph; or
- (B) another subdivision.

(2) COMPLEX LEGISLATION.—A drafter often uses multiple subdivisions in complex legislation. Multiple subdivisions are often found in—

- 1 (A) the Social Security Act; and  
2 (B) the Internal Revenue Code of 1986.

**SEC. 113. HEADINGS.**

(a) **NOMENCLATURE.**—The heading of a title, section, subsection, or other subdivision is called a heading [*not* a caption, title, header, or catchline].

(b) **USE.**—

(1) **SUBDIVISIONS ENDING WITH A PERIOD.**—Supply a heading for each subdivision of a bill that ends with a period.

(2) **SUBDIVISIONS FOLLOWING A DASH.**—Do not supply headings for subdivisions following a dash and separated by semicolons.

(3) **OTHER EXCEPTIONS.**—A heading may be omitted in the case of—

(A) a subdivision following a colon, if the subdivision comprises only a sentence fragment;

(B) a subdivision following a colon in a findings or purposes subdivision (whether or not the subdivision comprises a complete sentence); or

(C) a subdivision within a conforming or technical amendments subdivision (whether or not the subdivision comprises a complete sentence).

(c) NUMBER.—Unlike the text of a provision, the heading should usually be cast in the plural in naming the persons or things to which the provision applies.

(d) NOUN.—A heading should take the form of a noun (including a gerund but not a participle) or noun phrase.

(e) LENGTH.—Keep it short.

#### SEC. 114. MAINTENANCE OF ORGANIZATION.

To the extent practicable, add a new provision to a bill or existing law at a place that makes sense in view of the organization of the bill or law—

(1) by redesignating existing subdivisions and inserting the new provision after the substantive provisions (or doing it without redesignating, by inserting a new section such as section 101A between sections 101 and 102);

(2) by providing a subdivision designation for existing text and adding the new provision at the end; or

(3) by otherwise reorganizing the existing text to accommodate the new provision.

## Subtitle C—Particular Provisions

### SEC. 121. LONG TITLES.

(a) **IN GENERAL.**—The words beginning with “**A Bill**”, “**An Act**”, or “**Resolution**” and preceding the enacting clause (“*Be it enacted*”) or resolving clause (“*Resolved*”) constitute what is known as the “long title”. A long title should accurately and briefly describe the primary purpose or purposes of the bill, Act, or resolution.

#### (b) **BILLS.**—

(1) **IN GENERAL.**—The long title of a bill following “**A Bill**” continues with an infinitive. Example: “To clean up the environment.”

(2) **AMENDATORY BILLS.**—For a bill amending primarily 1 law, the form is as shown in the following example: “To amend the ABC Act to clean up the environment.”

(3) **APPROPRIATIONS BILLS.**—In accordance with section 105 of title 1, United States Code, the title of an Act making appropriations has the form shown in the following example: “An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and for other purposes.”

#### (c) **RESOLUTIONS.**—

(1) **IN GENERAL.**—The long title of a simple, concurrent, or joint resolution following “**Resolu-**

tion”, “**Concurrent Resolution**”, or “**Joint Resolution**” continues with a participle. Example: “Designating the month of May as National Dairy Month.”.

(2) **CONSTITUTIONAL AMENDMENTS.**—For a joint resolution proposing a constitutional amendment, the form is as follows: “Proposing an amendment to the Constitution of the United States concerning . . .”.

(d) **AND FOR OTHER PURPOSES.**—If a bill has more than 2 significant purposes, describe the most important purposes and finish with “, and for other purposes”. If the bill clearly has a single purpose, “and for other purposes” should not be used.

(e) **PRIVATE RELIEF.**—For a private relief bill, the form is as shown in the following example: “For the relief of John Smith of Jamestown, Virginia.”.

#### **SEC. 122. SECTION 1.**

(a) **CURRENT PRACTICE.**—For internal consistency and ease of citation and reference, the current practice is to designate the first section as section 1. This should be done even if there is only 1 section.

(b) **OBSOLETE FORM.**—In years past, the matter immediately following the enacting clause continued with “That” followed by the first provision of the bill, which,

for lack of a section designation, became known as, and is now properly referred to as, the “first section”.

**SEC. 123. SHORT TITLE; TABLE OF CONTENTS; REFERENCES.**

(a) **SHORT TITLE.—**

(1) **USAGE.—**

(A) **IN GENERAL.—**A short title should be used—

(i) for major legislation; and

(ii) to facilitate cross references.

(B) **MORE THAN 1 SHORT TITLE IN A BILL.—**

(i) **IN GENERAL.—**The practice of providing a short title for each title, subtitle, or other subdivision generally should be avoided. For the purpose of making a cross-reference to the subdivision, “title II of the XXX Act” usually works as well as a short title for the subdivision.

(ii) **EXCEPTIONS.—**A short title is appropriate for a subdivision—

(I) in a case in which a subdivision is added to a bill that has a short title that misrepresents the new subdivision and that cannot easily be changed; and

(II) in a case of an omnibus bill (such as a budget reconciliation Act) that consists of proposals that have been (or would otherwise be) separate pieces of legislation.

(C) AMENDATORY BILL.—In a bill that consists primarily of amendments to a law, it is appropriate for the short title to include “. . . Act Amendments [of *year* (if appropriate)]” (e.g. amendments to the Clean Air Act become the “Clean Air Act Amendments of 1997”).

(D) LENGTH.—Keep it short.

(2) FORM.—The form is as follows:

1 (a) SHORT TITLE.—This Act may be cited as the  
2 “\_\_\_\_\_ Act” or “\_\_\_\_\_ Act of 1997”.

3 (b) TABLE OF CONTENTS.—

4 (1) USAGE.—Use a table of contents to show  
5 sections and headings if it would be helpful (because  
6 of the length of the bill or otherwise).

7 (2) FORM.—The form is as follows:

8 (b) TABLE OF CONTENTS.—The table of contents of this  
9 Act is as follows:

Sec. 1. Short title; table of contents; references.

Sec. 2. Findings and purposes.

Sec. 3. Definitions.

## TITLE I—MAJOR LEGISLATIVE COMPONENT

Sec. 1001.

Subtitle A—

Sec. 1101.

CHAPTER 1—

Sec. 1111.

SUBCHAPTER A—

Sec. 1121.

PART I—

Sec. 1131.

SUBPART A—

Sec. 1141.

Subtitle B—

Sec. 1201.

## TITLE II—MAJOR LEGISLATIVE COMPONENT

Sec. 2001.

Sec. 2002.

Sec. 2003.

## (c) REFERENCES TO A LAW BEING AMENDED.—

(1) USAGE.—If a bill amends primarily 1 Act, it may be useful to include a statement that amendments made by the bill are considered to be amendments to that Act unless otherwise provided. This device should be used with care in order to avoid unintended consequences.

(2) FORM.—The form is as follows:

1 (\_\_\_\_) REFERENCES TO 1986 CODE.—Except as other-  
 2 wise expressly provided, wherever in this Act an amendment or  
 3 repeal is expressed in terms of an amendment to, or repeal of,  
 4 a section or other provision, the reference shall be considered

1 to be made to a section or other provision of the Internal Reve-  
2 nue Code of 1986.

**SEC. 124. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—Findings are congressional assertions of fact. A section of findings may contain statements that would be more appropriate to include in a committee report. However, findings are often important to a client and may be used by a client to convey policy.

(b) **PURPOSES.**—Purposes are congressional statements of the objectives of the legislation. Like a section of findings, a section of purposes may contain statements that would be more appropriate to include in a committee report. However, a purposes section can serve as a useful summary of the substantive provisions of the legislation.

(c) **DRAFTING.**—A findings or purposes section may be included in a draft if, for purposes of clarity, constitutionality concerns, or other reasons, such a section would aid the draft. See, e.g., *United States v. Lopez*, 115 S.Ct. 1624, 1631 (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 . . .”). Often a client will want a findings or purposes section, regardless of clarity, constitutionality, or other concerns. In such a case, ask the

client to submit a draft and then carefully review and edit the draft.

(d) FORMS.—The forms are as follows:

1    **SEC. 2. FINDINGS.**

2        Congress finds that—

- 3           (1) the antelope is an endangered species;  
4           (2) an elephant is a large, gray animal; and  
5           (3) both animals eat a lot of food.

6    **SEC. 2. FINDINGS.**

7        Congress makes the following findings:

- 8           (1) The antelope is an endangered species.  
9           (2) An elephant is a large, gray animal.  
10          (3) Both animals eat a lot of food.

11   **SEC. 2. PURPOSES.**

12        The purposes of this Act are—

- 13           (1) to protect antelope;  
14           (2) to protect elephants; and  
15           (3) to ensure that both antelope and elephants are fed.

16   **SEC. 2. PURPOSES.**

17        The purposes of this Act are as follows:

- 18           (1) To protect antelope.  
19           (2) To protect elephants.  
20           (3) To ensure that both antelope and elephants are  
21        fed.

**SEC. 125. DEFINED TERMS.**

(a) CHOICE OF TERMS.—

(1) IN GENERAL.—Choose a term that fairly communicates the concept. Avoid generic terms that may be used elsewhere in the bill (or the law that results from the bill) in a sense other than that of

the defined term. Do not ascribe to a term a meaning that departs greatly from the commonly understood meaning (e.g. The term "cat" means a member of the canine species.).

(2) 1 TERM ONLY.—Do not use more than 1 term to refer to the same thing.

(b) LOCATION.—

(1) DEFINED TERMS USED THROUGHOUT A BILL.—Normally, all defined terms that are used in a bill should be defined in a single definitions section.

(2) DEFINED TERMS USED ONLY IN 1 PROVISION.—If a term is used in only 1 title, subtitle, section, subsection, or other subdivision of a bill (or law being amended), and especially if the bill or law is lengthy and complex, the term may be defined in a definitions provision at the beginning of the subdivision.

(3) ALPHABETICAL ORDER.—Except as permitted under paragraph (4), terms defined in a definitions section should be placed in alphabetical order.

(4) GROUPING OF CRUCIAL TERMS AND INTER-RELATED TERMS.—In a complex bill that uses a defined term that is crucial to the understanding of the bill, the crucial definition may be set apart in its

own subsection (or section within a title, subtitle, or other larger provision entitled “Definitions”) with a heading such as “Definition of *Defined Term*” and the remaining defined terms placed in a provision with a heading such as “Other Definitions”.

(5) PARENTHETICAL DEFINITIONS.—In a short bill that contains only 1 or 2 terms that need to be defined, it is acceptable to omit a definitions section and insert after the first place each term appears the following: “(referred to in this Act [or provision of the Act] as the ‘*defined term*’)”.

(c) USE OF DEFINED TERMS IN A SENSE OTHER THAN THAT OF THE DEFINITION.—Do not use “unless the context requires otherwise . . .” in a definition.

(d) REFERENCES TO TERMS USED IN EXISTING LAW.—

(1) SINGLE REFERENCE IN TEXT.—If a term has the same meaning as a defined term used in an existing law and is used only once or twice in a bill, the defined term may be incorporated by inserting after the term the following: “(as defined in section 123 of the ABC Act (YY U.S.C. ZZZ))”.

(2) IN A DEFINITIONS PROVISION.—

(A) INCORPORATION OF DEFINED TERM IN IDENTICAL FORM.—In a definitions provision, if a defined term is identical to a defined term to

be incorporated, the form is as follows: "The term '*defined term*' has the meaning given the term in section 123 of the ABC Act (YY U.S.C. ZZZ).".

(B) INCORPORATION OF DEFINED TERM IN DIFFERENT FORM.—If the defined term is not identical to the defined term to be incorporated, the form is as follows: "The term '*defined term*' has the meaning given the term '*incorporated term*' in section 123 of the ABC Act (YY U.S.C. ZZZ).".

(C) INCORPORATION OF TERM THAT IS USED BUT NOT DEFINED IN EXISTING LAW.—

(i) DEFINITION BY EXECUTIVE OFFICER.—If a term to which reference is made is not defined in existing law, but is defined by an officer in the executive branch in accordance with express or implied authority given by the law, insert after the term the following: "(as defined under section 123 of the ABC Act (YY U.S.C. ZZZ))".

(ii) DEFINITION IN PRACTICE.—If a term used in a statute is not defined in the statute or by regulation, but a meaning has evolved through administrative or judi-

cial decisions, insert after the term the following: “(within the meaning of section 123 of the ABC Act (YY U.S.C. ZZZ))”.

(3) NO PARAGRAPH REFERENCE.—To eliminate the need to make conforming amendments that would be required if the paragraph (or other subdivision) designation of a defined term were changed by the amendment of a definitions provision, refer only to the definitions provision itself and not to the particular subdivision that contains the definition.

(4) NO QUOTATION MARKS.—When referring to “the definition of *defined term*”, do not put the defined term in quotation marks.

(e) FORM.—

(1) IN GENERAL.—The form is as follows:

(A) MOST CASES.—Except as provided in subparagraph (B), use the following form:

1 **SEC. \_\_\_\_.** DEFINITIONS. [IF THERE IS ONLY 1 DEFINED  
2 **TERM, USE “DEFINITION OF DEFINED TERM”**  
3 **AS A HEADING.]**

4 In this Act:

5 (1) HOUSEHOLD.—The term “household” means an  
6 individual and any spouse or child of the individual that re-  
7 sides in the same dwelling with the individual.

8 (2) HOUSEHOLD PET.—The term “household pet”  
9 means a cat, a dog, a bird, or a reptile.

(B) EXCEPTION.—In a bill that has only a few defined terms and that is not likely to be

amended in the future to add more defined terms, the following form may be used:

1   **SEC. \_\_\_\_ . DEFINITIONS.**

2       In this Act—

3           (1) the term “household” means an individual and any  
4       spouse or child of the individual that resides in the same  
5       dwelling with the individual; and

6           (2) the term “household pet” means—

7               (A) a cat;

8               (B) a dog;

9               (C) a bird; and

10              (D) a reptile.

(2) PARTICULAR ITEMS INCLUDED OR NOT INCLUDED.—Ideally, the meaning should be drafted so as to make clear exactly what is included in the meaning and what is not. If that is not practicable (or if the client wants to emphasize that items that undoubtedly do fall within the meaning are intended to be included or that items that undoubtedly do not fall within the meaning are intended not to be included), use the following form:

11           (1) HOUSEHOLD PET.—

12               (A) IN GENERAL.—The term “household pet”  
13       means—

14                   (i) a cat;

15                   (ii) a dog;

16                   (iii) a bird; or

17                   (iv) a reptile.

18               (B) INCLUSIONS.—The term “household pet” in-  
19       cludes—

- 1 (i) an American shorthair, a Burmese, a  
2 Manx, and a Siamese;  
3 (ii) a collie, a dachshund, and a golden re-  
4 triever;  
5 (iii) a finch, a parrot, and a tweety bird; and  
6 (iv) an iguana, a snake, and a turtle.  
7 (C) EXCLUSIONS.—The term “household pet”  
8 does not include—  
9 (i) a leopard;  
10 (ii) a wolf;  
11 (iii) a vulture; or  
12 (iv) an alligator, a python, a Gila monster (un-  
13 less the venom glands are removed), or a T Rex.

#### SEC. 126. AMENDMENTS TO STATUTES.

##### (a) METHOD.—

##### (1) IN GENERAL.—A provision is amended—

(A) by restating the provision, by striking the entire provision and reinserting it with changes or by amending the provision “to read as follows:”; or

(B) by striking and inserting specific text.

##### (2) RESTATEMENT.—

(A) IN GENERAL.—In the restatement method, an Act or subdivision of an Act is changed without specific identification of what the changes are.

(B) FEATURES.—This method—

(i) aids understanding of the effect of the provision as amended;

(ii) provides an opportunity to improve the style of the unchanged portions;

(iii) requires a side-by-side comparison with the existing law to locate the specific changes made; and

(iv) results in the unchanged portions involved appearing in the bill, which is often tactically unacceptable and invites further amendment.

(3) STRIKE AND INSERT OF SPECIFIC TEXT.—

(A) IN GENERAL.—In the strike and insert method, the amendment is achieved by striking or inserting text. It is done, for example, by stating that X is “amended by striking ‘Y’ and inserting ‘Z’ ”.

(B) FEATURES.—This method differs from an amendment by restatement in that the method—

(i) highlights the particular changes made (unless the number of changes is so great as to obscure each change);

(ii) avoids the risks caused by restating the unchanged text; and

(iii) requires a side-by-side comparison of the amendments and the existing law in

order to understand the effect of the amendments.

(C) ADDITION OF CLARIFYING TEXT.—

Frequently a strike and insert amendment can be made more understandable by striking (and reinserting) more text than is technically necessary so as to provide context.

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

(1) STRUCTURE OF AMENDED ACT.—Substantive amendments should appear in the numerical sequence of the sections of the Act amended or be organized by subject matter.

(2) CONFORMING AND TECHNICAL AMENDMENTS.—

(A) CONFORMING AMENDMENTS.—A conforming amendment is an amendment of a provision of law that is necessitated by the substantive amendments or provisions of the bill. The designation includes amendments, such as amendments to the table of contents, that formerly may have been designated as clerical amendments.

(B) TECHNICAL AMENDMENTS.—A technical amendment is a nonsubstantive amendment of a provision of law that may or may not

be related by subject matter to the substantive amendments or provisions of a bill, but is not necessitated by the amendments or provisions. In tax law, the designation often is used for amendments that have little or no revenue effect.

(C) LOCATION.—Conforming and technical amendments may be located immediately following the substantive amendments to which they relate (which tends to improve the organization and facilitate committee or floor amendments), or they may be located in a general conforming and technical amendments section and grouped and identified, by use of a heading, as relating to the substantive amendments.

(c) AMENDMENT TERMINOLOGY.—

(1) REFERENCE TO PROVISIONS TO BE AMENDED.—The forms are as follows:

(A) AMENDMENT IN A SINGLE SUBDIVISION.—

1       Section 123(a)(1) of the ABC Act (YY U.S.C. ZZZ(a)(1))  
2   is amended . . .

(B) SAME AMENDMENT IN MORE THAN 1  
SUBDIVISION.—

1           Clauses (i) and (ii) of section 123(a)(1)(A) of the ABC  
2 Act (YY U.S.C. ZZZ(a)(1)(A)) are each amended by . . . [*not*  
3 section 123(a)(1)(A) (i) and (ii)].

(2) REFERENCE TO MATTER TO BE STRICKEN.—

(A) DESCRIPTIVE CHARACTERIZATIONS.—

Any characterization of text to be removed (such as “the word” or “the phrase”) is surplusage. Example: Section 123 of the ABC Act (YY U.S.C. ZZZ) is amended by striking the phrase “by the Secretary”.

(B) METES AND BOUNDS REFERENCE FOR LENGTHY TEXT.—

(i) IDENTIFICATION OF BEGINNING AND END.—To strike a large block of text, strike the text by identifying the beginning and the end of the text.

(ii) FORMS.—The forms are as follows:

(I) STRIKE FROM 1 WORD OR PHRASE THROUGH ANOTHER.—

4           Section 123 of the ABC Act (YY U.S.C. ZZZ) is amended  
5 by striking “as determined by the Secretary” and all that fol-  
6 lows through “opportunity for public comment”.

(II) STRIKE FROM A WORD OR PHRASE THROUGH THE PERIOD.—

1 Section 123 of the ABC Act (YY U.S.C. ZZZ) is amended  
2 by striking "as determined by the Secretary" and all that fol-  
3 lows [and inserting a period]

(III) STRIKE OF MATTER PRE-  
CEDING A CUT-IN.—

4 Section 123 of the ABC Act (YY U.S.C. ZZZ) is amended  
5 in the first sentence by striking the matter that precedes para-  
6 graph (1) and inserting the following: "The Secretary shall  
7 not—".

(C) ABOVE AND DOWN.—Do not use  
"above" or "down".

(D) STRIKE OUT.—Use "strike", not  
"strike out".

(E) IN LIEU THEREOF.—Use "insert", not  
"insert in lieu thereof".

(3) INSERTING OR ADDING.—In a bill amending  
a law, text is "inserted" within the text of a subdivi-  
sion and "added" at the end of the subdivision.

(4) CUT-INS FOLLOWED BY FLUSH LAN-  
GUAGE.—

(A) USAGE.—It may be necessary when  
amending a provision with cut-in subdivisions to  
make clear that an addition to the end of the  
provision is not to be included in the last cut-  
in subdivision but is to appear after it.

(B) FORM.—The form is as follows:

1           Section 101(a) of the ABC Act (YY U.S.C. ZZZ(a))  
2           is amended by adding after paragraph (4) the following  
3           flush sentence:  
4           “The court may impose . . .”.

(5) IMMEDIATELY.—Do not use “immediately” to identify where new text is to be placed. Example: Section 123 of the ABC Act (YY U.S.C. ZZZ) is amended by inserting ~~immediately~~ after “good faith” the following: “, as determined by the Secretary,”.

(6) THE FOLLOWING.—

(A) PROXIMITY TO COLON.—The term “the following” should be as close to the colon as possible.

(B) FORMS.—The forms are as follows:

(i) ADDITION AT END.—

5           Section 123 of the ABC Act (YY U.S.C. ZZZ) is  
6           amended by adding at the end the following: [*not* by adding  
7           the following at the end:]

(ii) INSERTION.—

8           Section 123 of the ABC Act (YY U.S.C. ZZZ) is  
9           amended by inserting after XXX the following: [*not* by in-  
10          serting after XXX the following new paragraph:]

(7) THEREOF.—Do not use “thereof”. “There-  
of” as part of a description of the matter amended  
is surplusage. Example: Section 123 of the ABC Act  
(YY U.S.C. ZZZ) is amended by adding at the end  
~~thereof~~ the following:

(8) EACH PLACE RATHER THAN EACH TIME.—

When amending a term that appears more than once in a subdivision, “place” rather than “time” should be used to refer to the locations of the term. Example: Section 123 of the ABC Act (YY U.S.C. ZZZ) is amended by striking “E, F, and G” each ~~time~~ *place* it appears and inserting “H, I, and J”.

(d) CUMULATIVE AMENDMENTS.—

(1) IN GENERAL.—If, after a first amendment to a provision is made in a draft, a series of sections or subdivisions is added sequentially to that provision, or if the provision is again amended, the assumption is that the earlier (preceding) amendments have been executed. However, to alert the reader to the fact that the provision is amended elsewhere in the draft, the following forms may be used:

(A) NEW PROVISION ADDED ELSEWHERE.—

1 Title XX of the ABC Act (YY U.S.C. ZZZ et seq.) is  
2 amended by adding after section Y (as added by *the last provi-*  
3 *sion that makes an addition affecting the designation of the new*  
4 *section about to be added*) the following:

(B) OTHER AMENDMENT ELSEWHERE.—

5 Section 123 of the ABC Act (as amended by *the last provi-*  
6 *sion that affects section 123 in such a way that the amendments*  
7 *to section 123 that follow make no sense if you look only at exist-*

1 *ing law, e.g. subsections of section 123 have been redesignated)*  
2 is amended . . . .

(2) USE OF U.S.C. CITES.—In a case such as that described in paragraph (1)(B), where the U.S.C. cite is uncertain, omit the U.S.C. cite.

(e) SERIES OF AMENDMENTS FOLLOWING A DASH.—For a series of amendments that is made to the same provision and that follows a dash, the form is as follows:

3 (a) IN GENERAL.—Section 123 of the ABC Act (YY  
4 U.S.C. ZZZ) is amended—

- 5 (1) in subsection (a), by striking “not”;  
6 (2) in the first sentence of subsection (b), by striking  
7 “, as determined by the Secretary,”; and  
8 (3) by striking subsection (c).

(f) AMENDMENTS TO TABLES OF CONTENTS AND OTHER TABLES.—

(1) IN GENERAL.—The elements of a table of contents or any other table are referred to as “items”.

(2) FORMS.—Items are amended as follows:

(A) WITHIN AN ITEM.—

9 The item relating to section 7 in the table of contents in  
10 section 1(b) of the ABC Act (YY U.S.C. prec. ZZZ) is amend-  
11 ed by striking “of Agriculture” and inserting “of Energy”.

(B) ENTIRE ITEM.—

---

1 The table of contents in section 1(b) of the ABC Act (YY  
 2 U.S.C. prec. ZZZ) is amended by striking the item relating to  
 3 section 7 and inserting the following:

*to read  
as follows*

"Sec. 7. Secretary of Energy."

(g) MARGIN AMENDMENTS.—

(1) IN GENERAL.—If existing law contains im-  
 proper margin indentation or if an amendment being  
 made affects indentation, clearly indicate an intent  
 to change the indentation by using 1 of the following  
 methods:

(A) INSTRUCTION TO INDENT APPRO-  
 PRIATELY.—

4 Section 123(a) of the ABC Act (as redesignated by section  
 5 X) is amended by redesignating subparagraph (A) as para-  
 6 graph (1) and indenting appropriately.

(B) RESTATEMENT WITH APPROPRIATE IN-  
 DENTATION.—

7 Section 123(a) of the ABC Act (as redesignated by section  
 8 X) is amended by striking "the Secretary" and all that follows  
 9 through "(A) promulgate regulations" and inserting the follow-  
 10 ing: "the Secretary of Housing and Urban Development shall—  
 11 "(1) promulgate regulations".

(2) LAW A MESS WITH RESPECT TO INDENTA-  
 TION.—If fixing the indentation in accordance with  
 paragraph (1) would be too lengthy or confusing,  
 amend the law by restatement.

*→  
change  
margin  
to  
wi  
paragraph*

**SEC. 127. REPEALS AND OTHER FORMS OF TERMINATION.****(a) REPEALS.—**

(1) IMMEDIATE REPEAL.—To effect an immediate repeal of an existing law, the form is “The ABC Act (YY U.S.C. ZZZ et seq.) is repealed.”

**(2) PROSPECTIVE REPEAL.—**

(A) EXISTING LAW.—To repeal an existing law prospectively, the form is “The ABC Act (YY U.S.C. ZZZ et seq.) is repealed effective January 1, 2002.”

(B) LAW BEING ENACTED.—To effect a prospective repeal that is to be included in a law on the date of its enactment, the form is “This Act is repealed effective January 1, 2002.”

(C) CONTINUATION OF LAW BEYOND REPEAL DATE, BY AMENDMENT ENACTED BEFORE THE REPEAL DATE.—Before the repeal date specified in a prospective repeal, Congress can continue a law in effect beyond the repeal date simply by amending the repeal date.

**(3) REVIVAL OF LAW AFTER REPEAL.—**

(A) RESTATEMENT OF TEXT.—Except as provided in subparagraph (B), after the date on which or as of which a law has been repealed, revive the law by restating the text of the law

in its entirety. This method is preferred because—

(i) section 108 of title 1, United States Code, provides that “Whenever an Act is repealed, which repealed a former Act, such former Act shall not thereby be revived, unless it shall be expressly so provided.”;

(ii) there may be a long period of time or other intervening events between the date of repeal and the date of revival of the law that make revival of the original text problematic; and

(iii) restatement of the text of the law will make it easier to amend, and improve the drafting of, the law.

(B) REPEAL OF A REPEALER.—A repealed law may be revived without restating the text of the law, by repealing the repealer and specifically providing that it is the intent of Congress to revive the law as Congress did in the following form based on section 102 of the Interest and Dividend Tax Compliance Act of 1983 (Public Law 98–67; 97 Stat. 369):

1 **SEC. 102. REPEAL OF WITHHOLDING ON INTEREST AND**  
2 **DIVIDENDS.**

3 (a) **IN GENERAL.**—Subtitle A of title III of the Tax Eq-  
4 uity and Fiscal Responsibility Act of 1982 (relating to with-  
5 holding of tax from interest and dividends) is repealed effective  
6 July 1, 1983.

7 (b) **APPLICABILITY.**—Except as provided in this section,  
8 the Internal Revenue Code of 1954 shall be applied and admin-  
9 istered as if that subtitle (and the amendments made by that  
10 subtitle) had not been enacted.

(4) **EFFECT ON AMENDMENTS.**—The repeal of  
an Act does not repeal amendments made by the Act  
unless the repealer specifies that it does.

(b) **OTHER FORMS OF TERMINATION.**—

(1) **IN GENERAL.**—Terminations short of out-  
right repeal may take the forms of a cessation of ef-  
fectiveness, a termination of authority, and, in the  
case of a provision that puts an agency out of exist-  
ence, what is often referred to as a “sunset provi-  
sion”. The advantage of these (or disadvantage, de-  
pending on a client’s point of view) is that such ter-  
minations do not wipe the law off the books: a law  
or subdivision that has been terminated by 1 of  
these methods can be reinstated even after the ter-  
mination date simply by amending the termination  
date.

(2) **FORMS.**—The forms are as follows:

(A) **CESSATION OF EFFECTIVENESS.**—

(B) TERMINATION OF EFFECTIVENESS.—

1           The authority provided by section 5 terminates effec-  
2           tive January 1, 1998.

(C) SUNSET PROVISION.—

3           The program authorized by section 6 and the Office  
4           of Indian Housing cease to exist effective January 1, 1998.

(3) EFFECT ON AMENDMENTS.—A termination of authority under amendments made by an Act or a sunset of authority conferred by amendments made by an Act does not repeal the amendments.

**SEC. 128. REDESIGNATIONS.**

(a) IN GENERAL.—When adding or repealing provisions of existing law, it may be advisable to redesignate the remaining provisions of the law to maintain the logical structure of the law.

(b) EXCEPTIONS.—Do not redesignate if—

(1) the number or letter of the provision has become inextricably linked to the substance of the provision (e.g. section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b))); or

(2) the volume of redesignation required (including conforming amendments) is too great.

(c) ORDER OF AMENDMENT.—In an amendment to add a provision to another provision, if the structure of the provision being added to requires that the provision be added where another provision already exists, create

room for the new provision by first redesignating the existing provisions. Otherwise, redesignate after striking or repealing a provision.

(d) "RESERVED" OPTION.—If redesignation of a provision is not an option, the following form may be used:

1           Section 10 of the Securities Exchange Act of 1934 (15  
2   U.S.C. 78j) is amended by striking subsection (a) and inserting  
3   the following:  
4           “(a) [Reserved].”

(e) DESIGNATION OF INSERTED SECTIONS.—If it is necessary to insert 1 or more sections and redesignation of the following sections is not an option, the inserted sections are designated as follows:

5   **SEC. 123. EXISTING SECTION 123.**  
6   **SEC. 123A. FIRST INSERTED SECTION.**  
7   **SEC. 123B. SECOND INSERTED SECTION.**  
8   **SEC. 124. EXISTING SECTION 124.**

#### **SEC. 129. CITATION TO LAWS.**

(a) FORMS.—For a comprehensive discussion of proper citations to Acts of Congress as well as the Constitution, treaties, regulations, Executive orders, Senate rules, and court decisions, see the Citation Manual, Office of the Legislative Counsel, United States Senate (Appendix A).

(b) PARENTHETICAL CITATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a citation to any provision of law includes a parenthetical specifying—

(A) the title, section, and any further subdivision in which the provision appears in the United States Code; (of

(B) if the provision does not appear in the United States Code, the volume and page of the Statutes at Large at which the provision appears or the Public Law number.

(2) EXCEPTIONS.—

(A) POSITIVE LAW TITLES OF THE UNITED STATES CODE.—A provision in a title of the United States Code that Congress has enacted as law is cited as “section ZZZ of title YY, United States Code,” with no reference to “(YY U.S.C. ZZZ)”.

(B) INTERNAL REVENUE CODE.—A provision in the Internal Revenue Code of 1986 is cited as “section ZZZ of the Internal Revenue Code of 1986”, with no reference to “(26 U.S.C. ZZZ)”.

(C) CITATIONS WITHIN A PROVISION OF A LAW TO ANOTHER PROVISION WITHIN THAT LAW.—A citation in a provision in an Act to another provision in the same Act does not re-

quire a parenthetical citation unless, because of the placement of the provisions in widely disparate places in the United States Code, inclusion of the parenthetical citation would aid the reader.

(3) REFERENCES TO MORE THAN 1 PROVISION.—Do not use “and” or “or” in a parenthetical citation. The forms are as follows:

(A) SUBDIVISIONS LISTED IN THE CONJUNCTIVE.—

1        Sections UU and VV of the ABC Act (YY U.S.C. XXX,  
2        ZZZ).

(B) SUBDIVISIONS LISTED IN THE DISJUNCTIVE.—

3        Section UU or VV of the ABC Act (YY U.S.C. XXX,  
4        ZZZ).

(c) REFERENCES WITHIN A PROVISION OF A LAW TO ANOTHER PROVISION WITHIN THAT LAW.—A reference in 1 subdivision of a law to another subdivision is understood as a reference to another subdivision in the same law. A phrase such as “of this Act” or “of this section” is unnecessary unless its inclusion would make the draft clearer because of a nearby reference to another law.

(d) REFERENCES TO A PROVISION WITHIN A PROVISION.—

(1) REFERENCES TO 1 PROVISION WITHIN A PROVISION.—Refer to “section 123(a)(1)(A) of the ABC Act (YY U.S.C. ZZZ(a)(1)(A))” [not “subparagraph (A) of paragraph (1) of subsection (a) of section 123 of the ABC Act (YY U.S.C. ZZZ(a)(1)(A))”].

(2) REFERENCES TO MORE THAN 1 PROVISION WITHIN A PROVISION.—Refer to “subparagraphs (A) and (B) of section 123(a)(1) of the ABC Act (YY U.S.C. ZZZ(a)(1))” [not “section 123(a)(1) (A) and (B) of the ABC Act (YY U.S.C. ZZZ(a)(1) (A) and (B))”].

(e) ROGUE LAWS.—

(1) NO ALPHABETICAL OR NUMERICAL DESIGNATIONS.—In the case of a section that contains more than 1 undesignated indented provision, each provision is referred to as an “undesignated paragraph” (not a subsection), e.g. the fourth undesignated paragraph of section 123 of the ABC Act (YY U.S.C. ZZZ).

(2) DESIGNATED TEXT NOT INDENTED.—In the case of a provision that contains text that is designated but not indented, refer to each provision using the designation listed in section 112(b) that

would be used if the provision were properly indented.

(3) UNCONVENTIONAL DESIGNATIONS.—In the case of a section that contains provisions with unconventional designations—

(A) if that section or other sections of the law contain cross-references that refer to the provisions in a certain way, refer to the provisions in that way; or

(B) if the law does not contain such cross-references, refer to each provision using the designation listed in section 112(b), without regard to the indentation of the provision (“subsection (a)”, “paragraph (1)”, and so on).

(4) LAST RESORT.—If none of the preceding methods of referring to a provision is satisfactory, refer to the provision as “the provision designated ‘(\_\_\_\_)’ in section 123 of the ABC Act (YY U.S.C. ZZZ)”. This may be used in the case of a section in which the incorrect form discussed in section 112(e) is used.

(f) USE OF AS AMENDED.—Since a law speaks as of any moment in time at which the law is read, a reference in a law to another law refers to the other law as in effect at that moment (unless, of course, the law refers to the law as in effect at some other time). It is therefore

not appropriate to refer to "section 123 of the ABC Act, as amended,".

**SEC. 130. AUTHORIZATIONS OF APPROPRIATIONS, APPROPRIATIONS, AND DIRECT SPENDING.**

**(a) AUTHORIZATION OF APPROPRIATIONS.—**

**(1) IN GENERAL.—**An authorization of appropriations is used in authorizing legislation. Authorizing legislation sets up or continues the legal operation of a Federal program or agency or sanctions a particular type of obligation or expenditure within a program.

**(2) REQUIREMENT FOR APPROPRIATIONS ACTS.—**An authorization of appropriations establishes congressional authority to appropriate in an appropriations Act an amount up to the amount authorized. An authorization of appropriations does not create authority to obligate the amount provided. Paragraph 1 of rule XVI of the Standing Rules of the Senate provides that an amendment to an appropriations bill appropriating funds is not in order unless the appropriation being added by the amendment has been previously authorized in law. This rule is frequently waived or violated.

**(3) AUTHORIZATION NOT REQUIRED.—**

**(A) IN GENERAL.—**An authorization of appropriations is not required in legislation (see

paragraph (4)) 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. 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.

(B) SUCH SUMS AS ARE NECESSARY.—A provision authorizing “such sums as are necessary” is unnecessary.

(4) SPECIFIC AUTHORIZATIONS.—It may be advisable to include a specific authorization of appropriations (or a set-aside from (“earmark of”) an existing authorization) in legislation that authorizes a major new program or activity to provide guidance on the projected costs of the program or activity.

(5) IMPLIED DIRECT SPENDING.—A direction to an agency head to carry out a specific program or activity does not create implied direct spending authority. Use of “subject to the availability of appropriations” is unnecessary and confusing, but may be required by the client.

(6) FORMS.—The forms are as follows:

(A) SINGLE AMOUNT, 1 FISCAL YEAR.—

1           There is authorized to be appropriated to carry out this  
2 [provision] \$1,000,000 for fiscal year \_\_\_\_\_.

(B) SINGLE AMOUNT, MORE THAN 1 FISCAL YEAR.—

3           There is authorized to be appropriated to carry out this  
4 [provision] \$1,000,000 for each of fiscal years \_\_\_\_\_ and  
5 [or “through”] \_\_\_\_\_.

(C) DIFFERING AMOUNTS, MORE THAN 1 FISCAL YEAR.—

6           There are authorized to be appropriated to carry out this  
7 [provision]—  
8           (1) \$1,000,000 for fiscal year \_\_\_\_\_;  
9           (2) \$1,500,000 for fiscal year \_\_\_\_\_;  
10           (3) \$2,000,000 for fiscal year \_\_\_\_\_; and  
11           (4) \$2,500,000 for each fiscal year thereafter.

(D) SINGLE AMOUNT OVER A PERIOD OF CONSECUTIVE FISCAL YEARS.—

12           There is authorized to be appropriated to carry out this  
13 [provision] \$1,000,000 for the period of fiscal years 19\_\_\_\_  
14 through 20\_\_\_\_\_.

(b) APPROPRIATIONS.—

(1) IN GENERAL.—An appropriation is an authorization by Act of Congress (usually for 1 fiscal year) that permits Federal agencies to incur obligations and to make payment out of the Treasury for specific purposes. An appropriations Act is the most

common means of providing budget authority. An appropriations Act usually provides that “the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Agriculture, for the fiscal year ending September 30, \_\_\_\_\_, and for other purposes, namely:”.

(2) LANGUAGE OF PERMANENCY.—

(A) GENERAL RULE.—The presumption in an appropriations Act is that everything contained in the Act is effective only for the fiscal year for which appropriations are made.

(B) EXCEPTION.—The presumption of effectiveness for 1 fiscal year can be overcome if—

(i) the provision uses language indicating futurity, such as “without fiscal year limitation” or “This [provision] shall be effective for fiscal year [year covered by bill] and each fiscal year thereafter.”;

(ii) the provision is of a general character bearing no relation to the object of the appropriation; or

(iii) the provision amends existing law.

(C) REFERENCE.—See GAO Principles of Federal Appropriations Law, Vol. I, pp. 2–28, for a discussion of permanent legislation and appropriations Acts.

(c) DIRECT SPENDING AUTHORITY.—Direct spending authority is the authority to obligate Federal funds by law other than in an appropriations Act. The authority created remains available as provided by the law creating the authority. If no period is provided, the authority is permanent. The term includes entitlement authority (a legal obligation incurred by the United States). A simple example of direct spending authority is “There is authorized to be appropriated and is appropriated [amount] to carry out the [program].”

#### SEC. 131. SEVERABILITY CLAUSES.

(a) IN GENERAL.—The Supreme Court has made it clear that an invalid portion of a statute is 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”. *INS v. Chadha*, 462 U.S. 919, 931, *Buckley v. Valeo*, 424 U.S. 1, 108. Consequently, a severability clause is unnecessary.

(b) NONSEVERABILITY.—

(1) IN GENERAL.—A nonseverability clause provides that if a specific provision of an Act is declared

invalid, the whole Act or some portion of the Act shall be invalid.

(2) FORM.—The form is as follows:

1 (c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF  
2 ACT.—If section 501, 502, or 503 of the Federal Election  
3 Campaign Act of 1971 (as added by this section) or any part  
4 of those sections is held to be invalid, all provisions of and  
5 amendments made by this Act shall be invalid.

(c) PLACEMENT.—A severability or nonseverability clause should be placed before the effective date.

#### SEC. 132. 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, no effective date provision is needed. See *Robertson v. Bradbury*, 132 U.S. 491, 493 (1889), and *Sutherland on Statutory Construction*, 33.06, p. 12 (C. Sands 4th rev. ed. 1986).

(b) WHEN REQUIRED.—

(1) USAGE.—An effective date provision is required only if legislation is to take effect on a date other than the date of enactment.

(2) FORMS.—The forms are as follows:

(A) BY REFERENCE TO PAST OR FUTURE  
DATE.—

1   **SEC. \_\_\_\_ . EFFECTIVE DATE.**

2           This Act [and the amendments made by this Act] take[s]  
3 effect on [date].

(B) BY REFERENCE TO ANOTHER ACT.—

4   **SEC. \_\_\_\_ . EFFECTIVE DATE.**

5           This Act [and the amendments made by this Act] take[s]  
6 effect as if included in [cite to another Act].

(c) IN LEGISLATION MAKING AMENDMENTS.—If an effective date is required in legislation that makes amendments to existing law, the form is as follows: “the amendments made by [provision] take effect on”.

(d) SEPARATE EFFECTIVE DATES FOR PARTICULAR PROVISIONS.—An effective date that applies only to a specific subdivision may be incorporated in that subdivision.

(e) COMPARISON WITH APPLICABILITY PROVISIONS.—An applicability provision rather than an effective date provision should be used if the intention is to indicate the applicability of law to persons, things, or events.

(f) REFERENCE TO DATE OF ENACTMENT IN EXISTING LAW.—In an amendment to existing law, a reference to “the date of enactment of this Act” is a reference to the date of the initial enactment of that Act, not the date of enactment of the amendment.

## TITLE II—FLOOR AND COMMITTEE AMENDMENTS AND MOTIONS

### SEC. 201. FLOOR AMENDMENTS.

(a) IN GENERAL.—Except as provided in this section, the conventions and usages described in section 126 also apply in the case of any floor amendment.

(b) SUBJECT MATTER AND SEQUENCE.—In the Senate, absent unanimous consent or other procedural circumstances, the right to amend is not limited as to subject matter or sequence (unlike the House of Representatives, which is subject to germaneness rules).

(c) PENDING MATTER.—When an amendment is offered on the floor, the amendment is offered to the pending matter (or pending business). Thus, if a committee substitute amendment is pending, the amendment offered would be to the committee substitute.

(d) PAGE AND LINE NUMBERS.—

(1) GENERAL RULE.—Use page and line numbers whenever practicable in making amendments to bills or other amendments (rather than attempting to identify by citation, word reference, or means other than page and line number as described in subsection (e)).

(2) METHOD OF REFERENCE.—

(A) AMENDMENT TO 1 LINE ONLY.—The forms are as follows:

- 1        On page 12, line 5, strike “YY”.
- 2        On page 12, line 5, insert “YY” after “XX” .
- 3        On page 12, line 5, strike “XX” and insert “YY”.
- 4        On page 12, between lines 5 and 6, insert the following:
- 5        On page 12, after line [last line of the page], add the fol-  
6        lowing:

(B) AMENDMENT TO MORE THAN 1 LINE.—If a block of text is removed involving more than 1 line, the forms are as follows:

(i) 1 PAGE.—For an amendment on 1 page, the forms are as follows:

- 7        On page 12, lines 5 and 6, strike “Secretary”. [This ex-  
8        ample assumes that “Secretary” is hyphenated at the end of  
9        line 5. Note that the hyphen is not reproduced in the amend-  
10       ment.]
- 11       On page 12, strike lines 16 through 24.
- 12       On page 12, beginning on line 16, strike [“YY”] and all  
13       that follows through line 24.

(ii) 2 OR MORE PAGES.—For an amendment to 2 or more pages, the forms are as follows:

1 Beginning on page 12, strike line 16 and all that follows  
2 through page 15, line 11.

3 Beginning on page 12, line 16, strike ["YY"] and all that  
4 follows through page 15, line 11.

(3) COLONS AND QUOTATION MARKS.—If text is to be inserted into a bill after directory language ending with "the following:" (unless the text is to be run into the colon on the same line), the text should appear as it would in the bill. Use beginning and ending quotation marks only if they would appear in the bill if the amendment were adopted.

(e) AMENDMENTS BY INDIRECTION.—

(1) BILL OR AMENDMENT NOT AVAILABLE.—If the bill or first degree amendment being amended is not available in the form that is being considered on the floor, amendments may be made other than by specific reference to page and line number.

(2) FORMS.—The forms are as follows:

(A) FREESTANDING PROVISION IN THE BILL OR FIRST DEGREE AMENDMENT.—For a freestanding provision in a bill or first degree amendment, the form is as follows:

1 In section 8(c)(1), strike . . .

(B) AMENDMENT TO EXISTING LAW.—For  
an amendment to an existing law in a bill or  
first degree amendment, the form is as follows:

2 In section 203(a)(3) of the Social Security Act (as added  
3 by section 2103(a)(1)(D) [of the bill or amendment]),  
4 strike . . .

(C) LOCATION UNKNOWN.—If the location  
of an amendment cannot be ascertained because  
the measure to be amended is not identified or  
is otherwise unavailable, the following forms  
may be used:

5 At the appropriate place, insert the following:

6 On page \_\_\_\_, line \_\_\_\_, strike “E” and insert “F”.  
7 [Leaving lines blank to be inserted by the client.]

(f) TITLE AND PREAMBLE AMENDMENTS.—

(1) TITLE.—Title amendments are preceded by  
3 line skips. Title amendments are printed with lines  
off as follows:

Amend the title to read as follows: “[A bill] or [An  
Act, if the bill has been passed by the other House]  
to . . .”.

(2) PREAMBLE.—The preamble to a resolution  
may be amended by a substitute or by cut-and-bite  
amendments. Cut-and-bite amendments must be

done without reference to page and line numbers because the preamble is printed with lines off.

**SEC. 202. FORM, TYPE, AND DEGREE OF AMENDMENTS.**

(a) TWO PARTS OF AMENDMENTS.—

(1) INSTRUCTIONS AND NEW LANGUAGE.—“An amendment proposes to change the text of some question pending before the Senate [pending questions include bills, resolutions, amendments, and motions]. Most amendments consist of two parts: the instructions to the clerk as to what part of the question is to be amended (what language is to be stricken and/or where new language is to be inserted); and the new language (if any) the amendment proposes to insert. An amendment to strike, however, consists only of instructions indicating what language is to be stricken. Instructions are never amendable, but the language proposed to be stricken and the language to be inserted are generally amendable.” (Riddick’s Senate Procedure, p. 24).

(2) RULE.—You may not strike instructions. The prohibition includes such attempts as “striking all after the Viz:” and “strike ‘On page 2, line 3,’ ”.

(b) FORM.—

(1) IN GENERAL.—“An amendment may be in one of three forms, depending on what it proposes to do to the text of the pending question (as indi-

cated by the instructions). It may propose to strike language from that text, insert language into the text, or strike language from the text and insert different language in its place.” (Riddick’s Senate Procedure, p. 24).

(2) FORMS.—The forms are, respectively, as follows:

- 1       On page 3, strike lines 3 through 7.
- 2       On page 3, between lines 3 and 4, insert the following:
- 3       On page 3, line 5, strike “not less than 10 years” and in-  
4       sert “not more than 10 years”.

(c) TYPE.—

(1) IN GENERAL.—“The two types of amendments are perfecting amendments and substitute amendments, and they are defined in relation to the text that each proposes to amend. If an amendment proposes to strike all text available to be amended [the language available to be amended is the language of the pending question] and insert other language in its place, that amendment is considered to be a substitute amendment. Except as noted [in subsection (d)], a substitute counts as one degree of amendment. In its broadest form, such an amendment proposes to strike all after the enacting clause

of a bill or the resolving clause of a resolution. This amendment is frequently referred to as “an amendment in the nature of a substitute”. A perfecting amendment is any amendment that is not a substitute for the language available to be amended. A substitute is always in the form of an amendment to strike out language and insert other language, whereas a perfecting amendment may take any of the three forms mentioned [in subsection (b)(2)].” (Riddick’s Senate Procedure, p. 24).

(2) FORMS.—The forms are as follows:

(A) SUBSTITUTE AMENDMENT.—

(i) IN GENERAL.—For a substitute amendment, the forms are as follows:

(I) FOR AN ENTIRE BILL OR  
RESOLUTION.—

1       Strike all after the enacting [resolving] clause and insert  
2 the following:

(II) FOR AN AMENDMENT.—

3       In lieu of the matter proposed to be inserted, insert the  
4 following:

(ii) PURPOSE.—The purpose for a complete substitute is stated as follows:  
“To provide a complete substitute.”

(B) PERFECTING AMENDMENTS.—

(i) IN GENERAL.—Anything that is not a substitute is a perfecting amendment. Examples include any of the forms of amendment set forth in subsection (b)(2).

(ii) FORMS.—Generally, the forms are as follows:

(I) FIRST DEGREE AMENDMENT.—

1       On page 17, strike line 17 and all that follows through  
2       line 23 and insert the following:

(II) SECOND DEGREE AMENDMENT.—

3       In the matter proposed to be inserted, strike all after the  
4       first word and insert the following:

(3) GETTING THE FIRST VOTE.—

(A) TACTICAL ADVANTAGE.—A Member who is able to get a vote on an amendment first is often at a tactical advantage.

(B) ADVICE TO CLIENT.—A client who is seeking to get the first vote on an amendment by filling the amendment tree should be advised *to be aware of the situation on the floor when the amendment is offered* (which cannot be antici-

pated by the drafter) and to *check with the Parliamentarian*.

(C) SIMPLE METHOD.—

(i) IN GENERAL.—Riddick's Senate Procedure (1992 ed.) presents 4 different amendment trees at pages 74, 75, 84, and 89, with an order of voting for each. The simplest way to get the first vote on an amendment is to use the tree on page 74 and the amendment forms in paragraph (2)(B)(ii). The first vote would occur on the second degree amendment and no other amendments to the first degree amendment would be in order.

(ii) SUBSTANTIVE DIFFERENCE REQUIRED.—The Senate rules require that a second degree amendment must be different in a substantive way from the first. An easy way to make a substantive change is to provide a different effective date in the second degree amendment (e.g. 1 day after the date of enactment).

(d) DEGREE.—

(1) IN GENERAL.—“Amendments may be either in the first degree or second degree. An amendment to the original text to be amended is a first degree

amendment. An amendment to a pending first degree amendment is a second degree amendment. A second degree amendment may amend only that language proposed by the first degree amendment; it may not change language not affected by the first degree amendment. An amendment to a second degree amendment is a third degree amendment, and is not in order. However, if a complete substitute for a bill (or resolution) is the first amendment offered and pending, that substitute is considered original text for the purpose of amendment, and as such is amendable in two degrees, as is the underlying text of the bill or resolution the substitute would replace." (Riddick's Senate Procedure, p. 24).

(2) FORMS.—The forms are as follows:

(A) FIRST DEGREE.—

1       On page 6, between lines 7 and 8, insert the following:

(B) SECOND DEGREE.—

2       On page 3, line 5, of the amendment, strike "not less than.  
3 10 years" and insert "not more than 10 years".

#### SEC. 203. AMENDMENTS IN COMMITTEE.

Senate committees have various rules regarding the form of amendments offered during committee markups. Generally the form used for a floor amendment will suffice.

**SEC. 204. MOTIONS.**

(a) **IN GENERAL.**—A motion may be made orally or in writing and is subject to amendment unless the rules of the Senate provide otherwise. Types of motions include a motion to proceed to consideration, a motion to recommit, a motion to recess, and a request for unanimous consent (which is treated as a motion).

(b) **FORMS.**—

(1) **IN GENERAL.**—The forms are as follows:

(A) **MOTION TO PROCEED TO CONSIDERATION.**—

1        M\_\_. President, I move that the Senate proceed to the  
2        consideration of H.R. \_\_\_\_, Calendar No. \_\_\_\_.

(B) **MOTION TO RECOMMIT.**—

3        M\_\_. President, I move to recommit the conference report  
4        on S. 4 to the committee of conference with instructions to the  
5        managers on the part of the Senate to strike section 202.

(C) **MOTION TO RECESS.**—

6        M\_\_. President, I move that the Senate take a recess  
7        today from 1:00 p.m. to 4:00 p.m.

(D) **UNANIMOUS CONSENT.**—

8        M\_\_, President, I ask unanimous consent that the Senate  
9        lay aside the pending matter and proceed to consider Amend-  
10        ment No. 355, offered by M\_\_\_\_. Doe.

(2) AMENDMENTS TO MOTIONS.—An amendment to a motion is like any other amendment in that you may not amend the instructing language. In the form in paragraph (1)(B), an amendment could modify or strike only the language after “part of the Senate to”. Motions are amendable in 2 degrees.

## TITLE III—MISCELLANEOUS

### SEC. 301. ALPHABETIZATION.

(a) **LETTER-BY-LETTER METHOD.**—A definition or other term comprising 2 or more words is alphabetized using the letter-by-letter method. For example, “new-born” precedes “New England”. Hyphens, slashes, and apostrophes are ignored.

(b) **NUMERALS.**—A term beginning with a numeral (e.g. “8-hour workday”) precedes all terms beginning with a letter.

### SEC. 302. AND; OR.

(a) **IN GENERAL.**—In a list of criteria that specifies a class of things—

(1) use “or” between the next-to-last criterion and the last criterion to indicate that a thing is included in the class if it meets 1 or more of the criteria; and

(2) use “and” to indicate that a thing is included in the class only if it meets all of the criteria.

(b) **DETERMINING THE CORRECT CONJUNCTION FROM CONTEXT.**—In most contexts, the correct conjunction can readily be determined from the context, that is, the sense of the legislation and the structure in which the list appears.

(c) **STATEMENTS IN THE NEGATIVE.**—In a statement in the negative, “or” is almost always the correct

word (e.g. The term “permitted purpose” does not include training teachers or purchasing books.).

(d) PARTICULAR ISSUES.—

(1) LISTS OF PERMISSIBLE ACTIVITIES.—

(A) PROBLEM.—

(i) IN GENERAL.—In text that provides authority for a person to carry out several activities, it may be unclear whether the person may carry out only 1 (or fewer than all) of the activities.

(ii) EXAMPLE.—The Secretary may make grants to eligible schools to train teachers and purchase books.

(B) SOLUTIONS.—

(i) ONE OR MORE ACTIVITIES.—To permit a person to carry out 1 or more of the activities, use “or” as in the following example: “The Secretary may make grants to eligible schools. Each school shall use the grant to train teachers or purchase books.”.

(ii) ALL ACTIVITIES.—To permit a person to carry out all (and not fewer than all) of the activities, use “and” as in the following example: “The Secretary may make a grant to an eligible school. The

school shall use the grant to train teachers and purchase books.”.

(iii) COLLECTIVE RESPONSIBILITY  
FOR ALL ACTIVITIES.—

(I) IN GENERAL.—Occasionally, it is desirable to permit persons to carry out individually 1 or more of the activities, and collectively all the activities.

(II) INDIVIDUAL RESPONSIBILITIES.—To indicate the individual responsibilities, use “or” as in the following example: “The Secretary may make grants to eligible schools. Each school shall use the grant to train teachers or purchase books, in accordance with the grant agreement.”.

(III) COLLECTIVE RESPONSIBILITIES.—To indicate the collective responsibilities, use “and” as in the following example: “The Secretary shall make \_\_\_\_ grants for training teachers and \_\_\_\_ grants for purchasing books.”.

(2) PERCEIVED NEED FOR GREATER CLARITY.—

(A) **PROBLEM.**—It is sometimes desirable to explicitly state that a thing is included in a class if the thing—

- (i) meets each of the criteria;
- (ii) meets 1 or more of the criteria; or
- (iii) meets only 1 of the criteria.

(B) **SOLUTION.**—The form is as follows:

1       The Secretary may make a grant to an eligible school to  
2 be used for [each of] [1 or more of] [only 1 of] the following  
3 purposes:

- 4           (1) Training teachers.
- 5           (2) Purchasing books.
- 6           (3) Installing metal detectors.

(e) **AND/OR AS A SOLUTION.**—“And/or” has not gained acceptance in legislative drafting. Do not use “and/or”.

**SEC. 303. ASSURE; ENSURE; INSURE.**

(a) **ASSURE.**—Use “assure” to describe the making of an assurance by 1 person to another person that an event will or will not take place.

(b) **ENSURE.**—Use “ensure” to describe the taking of action to make certain that an event will or will not take place.

(c) **INSURE.**—Use “insure” to describe the procurement of insurance against a risk.

**SEC. 304. BY; UNDER.**

Use “by” if the result is achieved by the provision itself. Use “under” if the result occurs through action required or permitted by the provision.

**SEC. 305. CAPITALIZATION.**

(a) GPO STYLE MANUAL.—In general, follow the Government Printing Office Style Manual on questions of capitalization.

(b) CERTAIN WORDS.—In accordance with the GPO Style Manual, the following are capitalized: Federal, State (in reference to a State of the United States), Governor (in reference to the Governor of a State), and Government (only in reference to the Government of the United States).

**SEC. 306. CHAIRPERSON.**

In new legislation, use “chairperson” instead of “chairman” or “chair”.

**SEC. 307. COMMITTEES OF CONGRESS.**

(a) ORDER.—In a provision requiring the head of an agency to submit a report, it is sufficient to specify that the report be submitted “to Congress”. If a client wants to name the committees specifically, identify the Senate committee first unless the client requests that the House committee be identified first.

(b) FORM.—The form to be used when specifically naming committees is as follows: “Not later than

\_\_\_\_\_, the Secretary shall submit the report described in subsection ( ) [or transmit the report, if the Secretary is simply passing through a report prepared by others] to the Committee on Appropriations and the Committee on the Judiciary of the House of Representatives and the Committee on Appropriations and the Committee on the Judiciary of the Senate” [not “. . . the House Committees on Appropriations and the Judiciary and the Senate Committees on Appropriations and the Judiciary”].

**SEC. 308. CONDITIONAL PROVISIONS AND PROVISOS.**

(a) **CONDITIONAL PROVISIONS.**—Use “if” to indicate a condition [not “when” or “where”].

(b) **PROVISOS.**—Do not use “*Provided, That*”, “*Provided, however, That*”, and “*Provided further, That*”. Use “except that”, “but”, or “if” or start a new sentence or subdivision. This rule may be broken in the case of an appropriations Act.

**SEC. 309. DATE OF ENACTMENT.**

(a) **USE IN FREESTANDING LAW.**—

(1) **IN GENERAL.**—In freestanding law (including a law enacted by joint resolution), refer to “the date of enactment of this Act” [not “of this subdivision”].

(2) CONCURRENT OR SIMPLE RESOLUTIONS.—

A concurrent or simple resolution is adopted; refer to the “date of adoption of this resolution”.

(b) USE WITHIN QUOTED MATTER.—

(1) SHORT TITLE FORM.—If, in amending a statute, it is necessary to refer to the date of enactment of the Act making the amendment, the following form may be used:

1       Section 123 of the ABC Act (YY U.S.C. ZZZ) is amended  
2 by adding at the end the following:

3       “(d) PLAN.—

4               “(1) IN GENERAL.—Not later than 90 days after the  
5 date of enactment of the *short title of amendatory Act*, the  
6 Secretary shall . . .”.

(2) SUBDIVISION FORM.—

(A) NEW SUBDIVISION OR SENTENCE  
ADDED.—If, in amending a statute by adding a  
new subdivision at the end or adding a new sen-  
tence, it is necessary to refer to the date of en-  
actment of the Act making the amendment, the  
following form may be used:

7       Section 123 of the ABC Act (YY U.S.C. ZZZ) is amended  
8 by adding at the end the following:

9       “(d) PLAN.—

10               “(1) IN GENERAL.—Not later than 90 days after the  
11 date of enactment of this *senior subdivision being added*; in  
12 *this example, subsection*, the Secretary shall . . .”.

(B) SUBDIVISION AMENDED.—If, in amending a statute by redesignating existing subdivisions and inserting a new subdivision or by completely restating a subdivision, it is necessary to refer to the date of enactment of the Act making the amendment, the following form may be used if the new subdivision contains further subdivisions that the existing subdivision does not contain (e.g. an existing subsection is not subdivided into paragraphs but the new subsection is subdivided):

1 Section 123 of the ABC Act (YY U.S.C. ZZZ) is amended  
2 by striking subsection (d) and inserting the following:

3 “(d) PLAN.—

4 “(1) IN GENERAL.—Not later than 90 days after the  
5 date of enactment of this *senior subdivision being inserted*  
6 *that does not appear in the existing provision of law being*  
7 *amended*, the Secretary shall . . .”.

(C) APPLICATION.—The form described in this paragraph cannot be used—

(i) if a statute is amended by inserting only a word or phrase; or

(ii) if a subdivision and its junior subdivisions (if any) are replaced by the same subdivision and junior subdivisions (e.g. a subsection (a) with no paragraphs is re-

placed by a new subsection (a) with no paragraphs).

**SEC. 310. DETERMINE; DEEM; TREAT.**

Use “determines” rather than “deems” to indicate an exercise of judgment. Use “shall be treated as”, “is deemed to be”, or “is considered to be” for a legal fiction.

**SEC. 311. EXISTING OBJECTS AND CURRENT ACTIVITIES.**

(a) **IN GENERAL.**—A law generally applies as of the date on which the law is administered. If a provision refers to the date on which the provision is administered, omit references to “existing” or “current”.

(b) **OTHER DATE.**—If the provision refers to an object in existence, or an activity occurring, on some other date, specify the other date (e.g. “State law in effect on the date of enactment of the ABC Act” or “activities carried out on the date of submission of the State plan”).

(c) **DATE OF MAIN ACTIVITY.**—If a client insists on using “existing” or “current” to refer to the date on which a provision is administered, refer to the date associated with the main activity described in the provision (e.g. “projects being carried out as of the date of the determination”).

**SEC. 312. HEREBY.**

Do not use “hereby”, as in “The Commission is hereby established” or “The ABC Act (YY U.S.C. XXX et seq.) is hereby repealed”.

**SEC. 313. IF.**

“If” means “only if”. Do not use “only if” unless, in context that cannot easily be reworded otherwise, the meaning is unclear.

**SEC. 314. LAW.**

(a) IN GENERAL.—The law, in a phrase such as “in accordance with law”, consists of—

- (1) the Constitution;
- (2) treaties and other international agreements to which the United States is a party;
- (3) statutes enacted by Congress;
- (4) Executive orders and some Presidential proclamations;
- (5) rules and regulations adopted by Federal agencies that have the force of law; and
- (6) court decisions.

(b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW.—

- (1) PRECEDENCE OF LATER-ENACTED LAW.—  
In interpreting 2 statutes that contain provisions that are arguably inconsistent—

(A) a court will try to interpret the provisions as being consistent (at the risk of reaching a far-fetched interpretation of 1 or both of the provisions); and

(B) if the court determines that the provisions are inconsistent with each other, the court will hold that the later-enacted provision prevails.

(2) USE OF PHRASE.—

(A) IN GENERAL.—Avoid the use of “notwithstanding any other provision of law”. Inclusion of the phrase is not likely to have any effect. If a client believes that a provision is inconsistent with (if not completely contrary to) an existing law, it would be better to make sure that the client knows exactly what that law is, and the draft should either amend or repeal that law, or at least “notwithstand” that law by specific citation.

(B) TREATIES AND TRADE AGREEMENTS.—An attempt to override a treaty by use of “notwithstanding any other provision of law” is not effective. The provisions of a treaty intended to be abrogated must be specifically overridden in law.

1 (c) REGULATIONS.—

1           (1) TERMINOLOGY.—Subchapter II of chapter 5  
2           of title 5, United States Code (which is part of what  
3           is commonly referred to as the “Administrative Pro-  
4           cedure Act”) establishes administrative procedures  
5           for implementing, interpreting, and prescribing law  
6           or policy by Federal agencies through rulemaking.  
7           The term “rule” as defined under that subchapter  
8           includes agency regulations formulated, amended, or  
9           repealed through the rulemaking process.

10           (2) REQUIREMENT FOR AGENCY REGULA-  
11           TIONS.—To require that an agency promulgate regu-  
12           lations to implement a statutory provision by—

13                   (A) informal rulemaking under section 552  
14                   of title 5, United States Code, use the form  
15                   “not later than \_\_\_\_\_ after the date of enact-  
16                   ment of this Act, the *head of the agency* shall  
17                   promulgate a regulation *taking action*”; or

18                   (B) the formal rulemaking procedure of  
19                   sections 556 and 557 of title 5, United States  
20                   Code, use the form “the *head of the agency* shall  
21                   promulgate a regulation, on the record after op-  
22                   portunity for an agency hearing, *taking action*”.

23           (3) LAWS AND REGULATIONS.—Since “the law”  
24           includes regulations, do not use “laws and regula-  
25           tions”. If a client insists on specific reference to reg-  
26           ulations, use “laws (including regulations)”.

**SEC. 315. MAY; SHALL.**

(a) **USE IN THE POSITIVE.**—Use “may” [*not* “is authorized to” or “is empowered to”] to grant a right, privilege, or power. Use “shall” [*not* “is authorized and directed to” or “must”] to direct that action be taken.

(b) **USE IN THE NEGATIVE.**—Use “may not” to deny a right, privilege, or power. Use “shall not” to direct that an action not be taken.

**SEC. 316. MEANS; INCLUDES.**

(a) **IN GENERAL.**—In definitions and other provisions—

(1) use “means” to establish comprehensive meanings; and

(2) use “includes” to specify that a term includes certain elements (and may also include other elements).

(b) **BUT NOT LIMITED TO.**—

(1) **IN GENERAL.**—Since “includes” and its derivatives are not exhaustive or exclusive, the use of “, but is not limited to,” is redundant and invites misinterpretations.

(2) **RELATIONSHIP TO RULE OF STATUTORY CONSTRUCTION.**—The use of “but is not limited to” is not necessary to override the rule of statutory construction *eiusdem generis* (holding that general words following an enumeration are to be inter-

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preted as applying only to persons and things of the same general kind or class specifically mentioned) because *ejusdem generis* relates only to the kind or class of persons or things that are unspecified and does not preclude the inclusion of other unspecified persons or things.

**SEC. 317. NUMBER REFERENCES.**

(a) **IN GENERAL.**—Use numerals rather than words to express a cardinal number (1, 2, 3, 180, instead of one, two, three, and one hundred eighty, respectively) and spell out degrees of precedence through the tenth degree (e.g. first, second, third, . . . tenth) instead of using ordinal numbers (e.g. 1st, 2d, 3d, . . . 10th).

(b) **DOUBLE AND MIXED EXPRESSIONS.**—Use numerals only. Do not express—

(1) numbers both by words and numerals, such as “sixty-five (65)”; and

(2) millions and billions by words and numerals, such as “3 billion”.

(c) **FRACTIONS.**—Use numerals for fractions.

**SEC. 318. OFFICIALS, DEPARTMENTS, AND AGENCIES.**

(a) **OFFICIALS.**—Use the legal title of an official of the United States. The United States Government Manual is generally a reliable source for this purpose (e.g. the “Comptroller General of the United States”; the “Attorney General”).

(b) DEPARTMENTS AND AGENCIES.—It is assumed that a reference to a department or agency is a reference to a Federal department or agency. For example, it is not necessary to specify the “United States Department of State”, unless the context requires.

**SEC. 319. ONLY.**

Place “only” as closely as practicable to the word or phrase that it modifies.

**SEC. 320. PERSONS.**

(a) IN GENERAL.—Section 1 of title 1, United States Code, provides as follows: “In determining the meaning of any Act of Congress, unless the context indicates otherwise . . . ‘person’ and ‘whoever’ include corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals . . .”.

(b) INDIVIDUALS.—In text that is intended to apply only to natural persons, refer to a natural person as an “individual”.

**SEC. 321. PUNCTUATION WITH ITEMS IN A SERIES.**

(a) LISTS.—

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

(A) the item is subdivided and its margin is indented;

(B) the first word in each item in the list is lower case (unless a proper noun);

(C) each item (other than the last item) ends with a semicolon; and

(D) the conjunction “and” or “or” appears at the end of the next-to-last item only.

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

(A) SUBDIVISION AND INDENTATION.—Each item is subdivided and its margin is indented.

(B) CAPITALIZATION.—The first word in each item in the list is capitalized.

(C) ENDING.—Each item ends with a period.

(D) COLLECTIVE OR SEPARATE NATURE.—The collective or separate nature of the items is expressed in the lead-in text.

(b) COLONS.—Use a colon after “the following” and “as follows”.

(c) FINAL SERIES COMMA.—In sentences that are not broken into subdivisions, the last 2 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 item.

**SEC. 322. PUNCTUATION WITH QUOTED MATERIAL.**

Punctuation to be included at the end of (and as a part of) quoted text should appear within the quotes. Any punctuation after the quoted text that is a part of the amending sentence (and not a part of the quoted text itself) should appear after the closing quotation marks.

**SEC. 323. RELATIVE PRONOUNS.****(a) IN GENERAL.—**

(1) **THAT.**—Except in instances such as those described in subsection (c)(2), “that” is used to provide information that defines or restricts the meaning of an antecedent noun or pronoun, i.e., that gives additional information that is essential to identify the noun in order for the phrase in which the noun appears to make sense.

(2) **WHICH.**—“Which” (preceded by a comma) is used to provide additional information about a noun that is not essential in order for the phrase to make sense or to state a rule or requirement pertaining to the noun. The first use of “which”, to provide additional, nonessential information, is more likely to be found in a findings and purposes provision than in an operative provision.

**(b) ILLUSTRATION.—**

(1) **THAT.**—“Lying on the beach blanket were 3 sandwiches. The sandwich that I ate was a turkey sandwich.”

(2) **WHICH.**—“Lying on the beach blanket was a sandwich. The sandwich, which I ate, was a turkey sandwich.”

(c) **USE.**—

(1) **IN GENERAL.**—Most of the time in legislation, “that” is the correct word.

(2) **USE OF “WHICH” IN PLACE OF “THAT”.**—  
“Which” may be used in place of “that”—

(A) when the defining or restricting information consists of 2 or more phrases, 1 or more of which must begin with “in which”, “of which”, or “for which”; and

(B) when the text in which the phrase appears uses “that” several times in senses other than that of the relative pronoun.

#### **SEC. 324. SUCH.**

Do not use “such” if “the” or “that” works equally well.

#### **SEC. 325. TIME AND TIME PERIOD REFERENCES.**

(a) **ACTION TO BE TAKEN NOT LATER THAN A CERTAIN DATE OR EVENT.**—

(1) **FORMS.**—The forms are as follows:

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1 Not later than \_\_\_\_ days [any length of time less than a  
2 year] after *date* [e.g. a specific date, the date of enactment of  
3 this Act, the date on which *a certain event occurs*, the date that  
4 is \_\_\_\_ days after *date or event*], . . .

5 Not later than 1 year [\_\_\_\_ years] after *date or*  
6 *event*, . . .

7 Not later than \_\_\_\_ months after *date or event*, . . .

(2) OTHER FORMS.—“Within \_\_\_\_ days of *date or event*” should not be used because it is ambiguous as to whether it refers to the period before or the period after the date or event, or both. “No later than \_\_\_\_ days after” and “Within \_\_\_\_ days after” are not incorrect, but, in the interest of consistency in drafting, only the form stated in paragraph (1) should be used.

(b) NOT EARLIER THAN.—Use “Not earlier than *date or event* . . .”.

(c) TIME PERIODS.—The form is as follows: “During the period beginning on *date or event* and ending on *date or event* . . .”.

(d) DIFFERENT RULES APPLICABLE IN DIFFERENT TIME PERIODS.—In stating 1 rule that is to apply before a certain date and a different rule that is to apply on and after that date, the forms are “Before *date*” and “Beginning on *date*”. “Before *date*” and “After *date*” would result in there being no rule in effect on the date itself.

(e) FISCAL YEARS.—

(1) IN GENERAL.—Refer to “fiscal year \_\_\_\_” [not “the fiscal year \_\_\_\_” or “the fiscal year ending September 30, \_\_\_\_”].

(2) EFFECTIVE DATE BEGINNING WITH A FISCAL YEAR.—The form is as follows: “For fiscal year \_\_\_\_ and each fiscal year thereafter . . .”.

(f) TAXABLE YEARS.—Amendments to the Internal Revenue Code of 1986 frequently take effect “beginning with the first taxable year beginning after taxable year \_\_\_\_”.