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## A BILL FOR AN ACT

RELATING TO CASINO GAMING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Thirty years ago, Waikiki was the center of  
2 nightly entertainment in Hawaii. There were eight movie theater  
3 screens, multiple nightly live musical performances, a host of  
4 night clubs, and many other evening activities. Within the past  
5 few years, Waikiki has seen the movie theaters, musical  
6 performance venues, and night clubs all shut down, leaving  
7 Hawaii visitors with very few nighttime activities.

8           The legislature finds that a single casino in Waikiki will  
9 not only provide tourists with memorable nighttime activities,  
10 but will also stimulate the economy by creating hundreds of jobs  
11 and generating millions of dollars in revenue for the State. By  
12 comparison, other forms of gambling, such as lotteries, internet  
13 gambling, and non-casino electronic gambling, create few quality  
14 jobs and do not generate significant economic development in the  
15 State. Polls have shown that more than seventy per cent of  
16 Japanese, Chinese, and Korean visitors approve of a casino in  
17 Waikiki.



1 Other locations have found success with legalizing casino  
2 gambling. Within one year of the first casino opening in  
3 Singapore in 2010, tourism hit record levels, and Singapore's  
4 gaming market reached an estimated \$2,800,000,000.  
5 Jurisdictions that have allowed casino gambling have not  
6 experienced a predicted increase in crime following the opening  
7 of casinos. Two decades after Connecticut opened casinos, the  
8 communities around the casinos have not experienced an increase  
9 in crime and found that crime decreased compared to the time  
10 period before the casino opened.

11 The legislature believes that allowing only hotel patrons  
12 to access the Waikiki casino will help to reduce the potential  
13 negative impacts of gambling on Hawaii residents, while creating  
14 high-paying jobs within the casino.

15 The legislature further rejects any argument that other  
16 entities may open a gaming casino in Hawaii pursuant to the  
17 Indian Gaming Regulatory Act, which authorized the establishment  
18 of hundreds of Native American gaming operations. According to  
19 the National Indian Gaming Association, because there are no  
20 federally-recognized Native American nations indigenous to



1 Hawaii, a Native American gaming operation would not be  
2 permissible in Hawaii under the Act.

3 The purpose of this Act to authorize the establishment of  
4 one casino in Waikiki, on the island of Oahu, and to limit  
5 access to that casino to individuals who are staying in hotels.

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

9 "CHAPTER

10 CASINO GAMING

11 § -1 Limited casino gaming authorized. Casino gaming  
12 and a system of wagering incorporated therein, as defined in  
13 this chapter, are authorized only to the extent that casino  
14 gaming and wagering is conducted in accordance with this  
15 chapter.

16 § -2 Definitions. As used in this chapter, unless the  
17 context clearly requires otherwise:

18 "Affiliate" means a person who, directly or indirectly,  
19 through one or more intermediaries:

20 (1) Controls, is controlled by, or is under common control  
21 with;



1           (2) Is in a partnership or joint venture relationship  
2                   with; or

3           (3) Is a co-shareholder of a corporation, a co-member of a  
4                   limited liability company, or a co-partner in a  
5                   limited liability partnership with;

6 a person who holds or applies for a casino license under this  
7 chapter.

8           "Agent" means any person who is employed by any agency of  
9 the State, other than the commission, who is assigned to perform  
10 full-time services on behalf of or for the benefit of the  
11 commission, regardless of the title or position held by that  
12 person.

13           "Applicant" means any person who applies for a license  
14 under this chapter.

15           "Casino facility" means a freestanding, land-based  
16 structure that may include bars, restaurants, showrooms,  
17 theaters, or other facilities, but does not include any  
18 structure used for hotel or other transient accommodation  
19 lodging purposes.

20           "Casino gaming", "limited casino gaming", "game", or  
21 "gaming", as the context may require, means the operation of



1 games conducted pursuant to this chapter in a licensed casino  
2 facility, including but not limited to baccarat, twenty-one,  
3 poker, craps, slot machine, video gaming of chance, roulette  
4 wheel, Klondike table, punch-board, faro layout, numbers ticket,  
5 push car, jar ticket, pull tab, or other game of chance that is  
6 authorized by the commission as a wagering device.

7 "Casino license" means a license to operate and maintain a  
8 casino facility for casino gaming permitted under this chapter.

9 "Chairperson" means the member of the Hawaii gaming control  
10 commission selected by the other members of the Hawaii gaming  
11 control commission.

12 "Commission" means the Hawaii gaming control commission.

13 "Department" means the department of business, economic  
14 development, and tourism.

15 "Executive director" means the executive director of the  
16 commission.

17 "Financial interest" or "financially interested" means any  
18 interest in investments, awarding of contracts, grants, loans,  
19 purchases, leases, sales, or similar matters under consideration  
20 or consummated by the commission or holding a one per cent or  
21 more ownership interest in an applicant or a licensee. For



1 purposes of this definition, member, employee, or agent of the  
2 commission shall be considered to have a financial interest in a  
3 matter under consideration if any of the following circumstances  
4 exist:

5 (1) The individual owns one per cent or more of any class  
6 of outstanding securities that are issued by a party  
7 to the matter under consideration or consummated by  
8 the commission; or

9 (2) The individual is employed by or is an independent  
10 contractor for a party to the matter under  
11 consideration or consummated by the commission.

12 "Gross receipts":

13 (1) Means the total of:

14 (A) Cash received as winnings;

15 (B) Cash received in payment for credit extended by a  
16 licensee to a patron for purposes of gaming; and

17 (C) Compensation received for conducting any game in  
18 which the licensee is not party to a wager; and

19 (2) Does not include:

20 (A) Counterfeit money or tokens;



- 1 (B) Coins of other countries that are received in
- 2 gaming devices;
- 3 (C) Cash taken in fraudulent acts perpetrated against
- 4 a licensee for which the licensee is not
- 5 reimbursed; and
- 6 (D) Cash received as entry fees for contests or
- 7 tournaments in which patrons compete for prizes.

8 "Individual" means a natural person.

9 "Institutional investor" means:

- 10 (1) Any retirement fund administered by a public agency
- 11 for the exclusive benefit of federal, state, or county
- 12 public employees;
- 13 (2) An employee benefit plan, or pension fund that is
- 14 subject to the Employee Retirement Income Security Act
- 15 of 1974, as amended;
- 16 (3) An investment company registered under the Investment
- 17 Company Act of 1940 (54 Stat. 789, 15 U.S.C. 80a-1 to
- 18 80a-3 and 80a-4 to 80a-64);
- 19 (4) A collective investment trust organized by a bank
- 20 under title 12 Code of Federal Regulations section



1           9.18 of the rules of the United States Comptroller of  
2           the Currency;

3           (5) A closed end investment trust;

4           (6) A chartered or licensed life insurance company or  
5           property and casualty insurance company;

6           (7) A chartered or licensed financial institution;

7           (8) An investment advisor registered under the Investment  
8           Advisers Act of 1940, (54 Stat. 847, 15 U.S.C.

9           sections 80b-1 to 80b-21 as amended); and

10          (9) Any other person as the commission may determine for  
11          reasons consistent with this chapter.

12          "Investigative hearing" means any hearing conducted by the  
13          commission or its authorized representative to investigate and  
14          gather information or evidence regarding pending license  
15          applicants, qualifiers, licensees, or alleged or apparent  
16          violations of this chapter or rules adopted by the commission.  
17          An investigative hearing shall include any matter related to an  
18          apparent deficiency.

19          "Occupational license" means a license issued by the  
20          commission to a person or entity to perform an occupation



1 relating to casino gaming in the State that the commission has  
2 identified as an occupation that requires a license.

3 "Person" means an individual, association, partnership,  
4 estate, trust, corporation, limited liability company, or other  
5 legal entity.

6 "Qualifier" means an affiliate, affiliated company,  
7 officer, director, or managerial employee of an applicant, or a  
8 person who holds greater than a five per cent direct or indirect  
9 interest in an applicant. As used in this definition,  
10 "affiliate" and "affiliated company" do not include a  
11 partnership, a joint venture relationship, a co-shareholder of a  
12 corporation, a co-member of a limited liability company, or a  
13 co-partner in a limited liability partnership that has a five  
14 per cent or less direct interest in the applicant and is not  
15 involved in the casino as defined in rules adopted by the  
16 commission.

17 "Supplier" means a person that the commission has  
18 identified under rules adopted by the commission as requiring a  
19 license to provide casino licensees with goods or services  
20 regarding the realty, construction, maintenance, or business of  
21 a proposed or existing casino facility on a regular or



1 continuing basis, including junket enterprises, security  
2 businesses, manufacturers, distributors, persons who service  
3 gaming devices or equipment, garbage haulers, maintenance  
4 companies, food purveyors, and construction companies.

5 "Supplier's license" means a license that authorizes a  
6 supplier to furnish any equipment, devices, supplies, or  
7 services to a licensed casino facility permitted under this  
8 chapter.

9 § -3 Hawaii gaming control commission. (a) There is  
10 established the Hawaii gaming control commission. The  
11 commission shall be a body corporate and a public  
12 instrumentality of the State for the purpose of implementing  
13 this chapter. The commission shall be placed within the  
14 department of business, economic development, and tourism for  
15 administrative purposes. The commission shall consist of seven  
16 members to be appointed by the governor pursuant to section  
17 26-34. Of the seven members, two shall be appointed from a list  
18 of nominees submitted by the president of the senate and two  
19 shall be appointed from a list of nominees submitted by the  
20 speaker of the house of representatives. All appointments to



1 the commission shall be made within sixty days of the effective  
2 date of this Act.

3 (b) No person shall be appointed as a member of the  
4 commission or continue to be a member of the commission if the  
5 person:

6 (1) Is an elected state official;

7 (2) Is licensed by the commission pursuant to this  
8 chapter, or is an official of, has a financial  
9 interest in, or has a financial relationship with, any  
10 gaming operation subject to the jurisdiction of this  
11 commission pursuant to this chapter;

12 (3) Is related to any person within the second degree of  
13 consanguinity or affinity who is licensed by the  
14 commission pursuant to this chapter; or

15 (4) Has been under indictment, convicted, pled guilty or  
16 nolo contendere, or forfeited bail for a felony or a  
17 misdemeanor involving gambling or fraud under the laws  
18 of this State, any other state, or the United States  
19 within the ten years prior to appointment or a local  
20 ordinance in a state involving gambling or fraud that



1 substantially corresponds to a misdemeanor in that  
2 state within the ten years prior to appointment.

3 (c) Vacancies in the commission shall be filled for the  
4 unexpired term in like manner as the original appointments.

5 (d) The president of the senate or the speaker of the  
6 house of representatives may request that the governor remove or  
7 suspend a member of the commission who is nominated by the  
8 president of the senate or the speaker of the house of  
9 representatives. Upon receipt of a request from the president  
10 of the senate or the speaker of the house of representatives,  
11 and after due notice and public hearing, the governor may remove  
12 or suspend for cause any member of the commission.

13 (e) Members of the commission shall:

14 (1) Be a resident of the State;

15 (2) Serve part-time;

16 (3) Be paid compensation of \$300 for each day in the  
17 performance of official duties; and

18 (4) Be reimbursed for expenses, including travel expenses,  
19 incurred in the performance of official duties.

20 (f) Officers of the commission, including the chairperson,  
21 shall be selected by the members. The commission, subject to



1 chapter 92, shall hold at least one meeting in each quarter of  
2 the state fiscal year. Special meetings may be called by the  
3 chairperson or any four members upon seventy-two hours written  
4 notice to each member. Four members shall constitute a quorum,  
5 and a majority vote of the members present shall be required for  
6 any final determination by the commission. The commission shall  
7 keep a complete and accurate record of all its meetings.

8 (g) Before assuming the duties of office, each member of  
9 the commission shall take an oath that the member shall  
10 faithfully execute the duties of office according to the laws of  
11 the State and shall file and maintain with the director a bond  
12 in the sum of \$25,000 with good and sufficient sureties. The  
13 cost of any bond for any member of the commission under this  
14 section shall be considered a part of the necessary expenses of  
15 the commission.

16 (h) The commission shall appoint a person to serve as the  
17 executive director of the commission and who shall be subject to  
18 the commission's supervision. The executive director shall:

- 19 (1) Hold office at the pleasure of the commission;  
20 (2) Be exempt from chapters 76 and 89;  
21 (3) Devote full time to the duties of the office;



- 1           (4) Not hold any other office or employment;
- 2           (5) Perform all duties that the commission assigns;
- 3           (6) Receive an annual salary at an amount set by the
- 4                 commission; and
- 5           (7) Be reimbursed for expenses actually and necessarily
- 6                 incurred in the performance of the executive
- 7                 director's duties.
- 8           (i) Except as otherwise provided by law, the executive
- 9 director may:
  - 10           (1) Hire assistants, other officers, and employees, who
  - 11                 shall be exempt from chapters 76 and 89 and who shall
  - 12                 serve at the pleasure of the executive director; and
  - 13           (2) Appoint committees and consultants necessary for the
  - 14                 efficient operation of casino gaming; provided that no
  - 15                 person shall be hired or appointed under this
  - 16                 subsection who:
    - 17                 (A) Is an elected state official;
    - 18                 (B) Is licensed by the commission pursuant to this
    - 19                         chapter or is an official of, has a financial
    - 20                         interest in, or has a financial relationship
    - 21                         with, any gaming operation subject to the



1 jurisdiction of this commission pursuant to this  
2 chapter;

3 (C) Is related to any person within the second degree  
4 of consanguinity or affinity who is licensed by  
5 the commission pursuant to this chapter; or

6 (D) Has been under indictment, convicted, pled guilty  
7 or nolo contendere, or forfeited bail for a  
8 felony or misdemeanor concerning gambling or  
9 fraud under the laws of this State, any other  
10 state, or the United States within the last ten  
11 years, or a local ordinance in any state  
12 involving gambling or fraud that substantially  
13 corresponds to a misdemeanor in that state within  
14 the ten years prior to employment.

15 (j) The salaries of employees hired pursuant to subsection  
16 (i) shall be set by the executive director.

17 (k) The commission shall adopt rules in accordance with  
18 chapter 91 establishing a code of ethics for its employees that  
19 shall include a prohibition on employees participating in or  
20 wagering on any casino game or casino gaming operation subject  
21 to the jurisdiction of the commission. The code of ethics shall



1 be separate from and in addition to any standards of conduct set  
2 forth pursuant to chapter 84.

3 (1) No person shall be employed by the commission if:

4 (1) During the three years immediately preceding  
5 appointment or employment, the person held any direct  
6 or indirect interest in, or was employed by:

7 (A) A casino licensee under this chapter or in  
8 another jurisdiction; or

9 (B) A potential casino licensee who had an  
10 application to operate a casino pending before  
11 the commission or any other jurisdiction;

12 except that the person seeking employment may be  
13 employed by the commission if the person's interest in  
14 any casino licensee would not, in the opinion of the  
15 commission, interfere with the objective discharge of  
16 the person's employment obligations. A person shall  
17 not be employed by the commission if the person's  
18 interest in the casino licensee constitutes a  
19 controlling interest in that casino licensee; or

20 (2) The person or the person's spouse, parent, child,  
21 child's spouse, or sibling, is a member of the



1           commission, or a director of, or a person financially  
2           interested in, any person licensed as a casino  
3           licensee or casino supplier, or any person who has an  
4           application for a casino or occupational license  
5           pending before the commission.

6           (m) Each employee of the commission, except the executive  
7           director or a key employee, shall file with the commission at  
8           the time of employment a financial disclosure statement listing  
9           all assets, liabilities, property and business interests, and  
10          sources of income of the employee and the employee's spouse.

11          (n) A member of the commission, executive director, or key  
12          employee shall not hold direct or indirect interest in, be  
13          employed by, or enter into a contract for service with, any  
14          applicant or person licensed by the commission for a period of  
15          five years after the date of termination of the person's  
16          membership on or employment with the commission.

17          (o) An employee of the commission shall not acquire any  
18          direct or indirect interest in, be employed by, or enter into a  
19          contract for services with any applicant or person licensed by  
20          the commission for a period of three years after the date of  
21          termination of the person's employment with the commission.



1           (p) A commission member or a person employed by the  
2 commission shall not represent a person or party other than the  
3 State before or against the commission for a period of three  
4 years after the date of termination of the member's term of  
5 office or the employee's period of employment with the  
6 commission.

7           (q) A business entity in which a former commission member  
8 or employee or agent has an interest, or any partner, officer,  
9 or employee of the business entity, shall not make any  
10 appearance or representation before the commission that is  
11 prohibited to that former member, employee, or agent. As used  
12 in this subsection, "business entity" means a corporation,  
13 limited liability company, partnership, limited liability  
14 partnership association, trust, or other form of legal entity.

15           § -4 Staff. (a) The executive director shall keep  
16 records of all proceedings of the commission and shall preserve  
17 all records, books, documents, and other papers belonging to the  
18 commission or entrusted to its care relating to casino gaming.

19           (b) In addition to persons hired under section -3(i)  
20 the commission may employ any personnel that may be necessary to  
21 carry out its duties related to casino gaming.



1           §   -5 Powers of the commission. The commission shall  
2 have all powers necessary to fully and effectively supervise all  
3 casino gaming operations, including the power to:

4           (1) Administer, regulate, and enforce the system of casino  
5 gaming established by this chapter. The commission's  
6 jurisdiction shall extend to every person,  
7 association, corporation, partnership, trust, and any  
8 other entity with a financial interest in or holding a  
9 license under this chapter, or required under this  
10 chapter to hold a license in casino gaming operations  
11 in the city and county of Honolulu;

12           (2) Issue a ten-year casino license to operate a casino  
13 facility pursuant to this chapter;

14           (3) Determine the types and numbers of occupational and  
15 supplier's licenses to be permitted under this  
16 chapter;

17           (4) Adopt standards for the licensing of all persons under  
18 this chapter subject to the qualifications and  
19 standards set forth herein, to issue licenses, and to  
20 establish and collect fees for these licenses;



- 1           (5) Provide for the collection of all taxes imposed
- 2                   pursuant to this chapter, and to collect, receive,
- 3                   expend, and account for all revenues derived from
- 4                   casino gaming within the city and county of Honolulu;
- 5           (6) Enter at any time without a warrant and without notice
- 6                   to a licensee, the premises, offices, casino facility,
- 7                   or other places of business of a casino licensee, or
- 8                   casino supplier licensee, where evidence of the
- 9                   compliance or noncompliance with this chapter or rules
- 10                  is likely to be found. Entry is authorized to:
- 11                  (A) Inspect and examine all premises wherein casino
- 12                          gaming or the business of gaming or the business
- 13                          of a supplier is conducted, or where any records
- 14                          of the activities are prepared;
- 15                  (B) Inspect, examine, audit, impound, seize, or
- 16                          assume physical control of, or summarily remove
- 17                          from the premises all books, ledgers, documents,
- 18                          writings, photocopies of correspondence records,
- 19                          videotapes, including electronically stored
- 20                          records, money receptacles, other containers and
- 21                          their contents, equipment in which the records



1           are stored, or other gaming related equipment and  
2           supplies on or around the premises, including  
3           counting rooms;

4           (C) Inspect the person, and inspect, examine, and  
5           seize personal effects present in a casino  
6           facility licensed under this chapter, of any  
7           holder of a licensed casino facility; and

8           (D) Investigate and deter alleged violations of this  
9           chapter or rules;

10          (7) Investigate alleged violations of this chapter and to  
11          take appropriate disciplinary action against a casino  
12          licensee or a holder of an occupational or supplier  
13          license for a violation, or institute appropriate  
14          legal action for enforcement, or both;

15          (8) Be present, through its inspectors and agents, any  
16          time casino gaming operations are conducted in any  
17          casino for the purpose of certifying the casino's  
18          revenue, receiving complaints from the public, and  
19          conducting other investigations into the conduct of  
20          the casino gaming and the maintenance of the equipment



1 as from time to time the commission may deem necessary  
2 and proper;

3 (9) Adopt appropriate standards for a casino facility, as  
4 well as for electronic or mechanical gaming devices;

5 (10) Require that records, including financial or other  
6 statements, of any casino licensee under this chapter  
7 be kept in the manner prescribed by the commission and  
8 that any licensee involved in the ownership or  
9 management of casino gaming operations submit to the  
10 commission an annual balance sheet and profit and loss  
11 statement, a list of the stockholders or other persons  
12 having a five per cent or greater beneficial interest  
13 in the gaming activities of each licensee, and any  
14 other information the commission deems necessary to  
15 effectively administer this chapter;

16 (11) Conduct hearings, issue subpoenas for the attendance  
17 of witnesses and subpoenas duces tecum for the  
18 production of books, records, and other pertinent  
19 documents, and to administer oaths and affirmations to  
20 the witnesses, when, in the judgment of the  
21 commission, it is necessary to administer or enforce



1           this chapter. The executive director or the executive  
2           director's designee is also authorized to issue  
3           subpoenas and to administer oaths and affirmations to  
4           witnesses;

5           (12) Prescribe any employment application form to be used  
6           by any licensee involved in the ownership or  
7           management of casino gaming operations for hiring  
8           purposes;

9           (13) Eject or exclude, or authorize the ejection or  
10          exclusion of, any person from casino facilities where  
11          the person is in violation of this chapter or, based  
12          upon the person's conduct or reputation, the person's  
13          presence within a casino facility, in the opinion of  
14          the commission, may call into question the honesty and  
15          integrity of the casino gaming operation or interfere  
16          with the orderly conduct thereof, or any other action  
17          that, in the opinion of the commission, is a detriment  
18          or impediment to the casino gaming operations;  
19          provided that the propriety of that ejection or  
20          exclusion shall be subject to subsequent hearing by  
21          the commission;



- 1       (14) Permit a casino licensee of casino gaming operations  
2           to use a wagering system whereby wagerers' money may  
3           be converted to tokens, electronic cards, or chips,  
4           that shall be used only for wagering within the casino  
5           facility;
- 6       (15) Suspend, revoke, or restrict licenses, to require the  
7           removal of a licensee or an employee of a licensee for  
8           a violation of this chapter or a commission rule, or  
9           for engaging in a fraudulent practice;
- 10      (16) Impose and collect fines of up to \$5,000 against  
11           individuals and up to \$10,000 or an amount equal to  
12           the daily gross receipts, whichever is larger, against  
13           a licensee for each violation of this chapter, any  
14           rules adopted by the commission, or for any other  
15           action which, in the commission's discretion, is a  
16           detriment or impediment to casino gaming operations;
- 17      (17) Establish minimum levels of insurance to be maintained  
18           by a licensee;
- 19      (18) Delegate the execution of any of its powers for the  
20           purpose of administering and enforcing this chapter;  
21           and



- 1           (19) Adopt rules pursuant to chapter 91 to implement this  
2           chapter, including rules that:
- 3           (A) Govern, restrict, approve, or regulate the casino  
4           gaming authorized in this chapter;
- 5           (B) Promote the safety, security, and integrity of  
6           casino gaming authorized in this chapter;
- 7           (C) License and regulate, consistent with the  
8           qualifications and standards set forth in this  
9           chapter, persons participating in or involved  
10          with casino gaming authorized in this chapter;  
11          and
- 12          (D) Take any other action that may be reasonable or  
13          appropriate to enforce this chapter and rules  
14          adopted under this chapter.

15 This section is not intended to limit warrantless inspections  
16 except in accordance with constitutional requirements.

17           § -6 Member, employee, or agent of commission; conduct  
18 generally. (a) By January 31 of each year, each member of the  
19 commission shall prepare and file with the commission, a  
20 disclosure form in which the member shall:



- 1           (1) Affirm that the member or the member's spouse, parent,  
2           child, or child's spouse is not a member of the board  
3           of directors of, financially interested in, or  
4           employed by, a licensee or applicant;
- 5           (2) Affirm that the member continues to meet all other  
6           criteria for commission membership under this chapter  
7           or the rules adopted by the commission;
- 8           (3) Disclose any legal or beneficial interest in any real  
9           property that is or may be directly or indirectly  
10          involved with gaming operations authorized by this  
11          chapter; and
- 12          (4) Disclose any other information that may be required to  
13          ensure that the integrity of the commission and its  
14          work is maintained.
- 15          (b) By January 31 of each year, each employee of the  
16          commission shall prepare and file with the commission a  
17          disclosure form in which the employee shall:
- 18               (1) Affirm the absence of financial interests prohibited  
19               by this chapter;
- 20               (2) Disclose any legal or beneficial interests in any real  
21               property that is or that may be directly or indirectly



1           involved with gaming or gaming operations authorized  
2           by this chapter;

3           (3) Disclose whether the employee or the employee's  
4           spouse, parent, child, or child's spouse is  
5           financially interested in or employed by a supplier  
6           licensee, or an applicant for a supplier's license,  
7           under this chapter; and

8           (4) Disclose any other information that may be required to  
9           ensure that the integrity of the commission and its  
10          work is maintained.

11          (c) A member, employee, or agent of the commission who  
12          becomes aware that the member, employee, or agent of the  
13          commission or their spouse, parent, or child is a member of the  
14          board of directors of, financially interested in, or employed by  
15          a licensee or an applicant shall immediately provide detailed  
16          written notice to the chairperson.

17          (d) A member, employee, or agent of the commission who has  
18          been indicted, charged with, convicted of, pled guilty or nolo  
19          contendere to, or forfeited bail for:

20           (1) A misdemeanor involving gambling, dishonesty, theft,  
21           or fraud;



1           (2) A local ordinance in any state involving gambling,  
2                   dishonesty, theft, or fraud that substantially  
3                   corresponds to a misdemeanor in that state; or

4           (3) A felony under Hawaii law, the laws of any other  
5                   state, or the laws of the United States, or any other  
6                   jurisdiction;

7 shall immediately provide detailed written notice of the  
8 conviction or charge to the chairperson.

9           (e) Any member, employee, or agent of the commission who  
10 is negotiating for, or acquires by any means, any interest in  
11 any person who is a licensee or an applicant, or is affiliated  
12 with such a person, shall immediately provide written notice of  
13 the details of the interest to the chairperson. The member,  
14 employee, or agent of the commission shall not act on behalf of  
15 the commission with respect to that person.

16           (f) A member, employee, or agent of the commission shall  
17 not enter into any negotiations for employment with any person  
18 or affiliate of any person who is a licensee or an affiliate and  
19 shall immediately provide written notice of the details of any  
20 such negotiations or discussions to the chairperson. The



1 member, employee, or agent of the commission shall not take any  
2 action on behalf of the commission with respect to that person.

3 (g) Any member, employee, or agent of the commission who  
4 receives an invitation, written or oral, to initiate a  
5 discussion concerning employment or the possibility of  
6 employment with a person, or affiliate of a person, who is a  
7 licensee or an applicant shall immediately report the invitation  
8 to the chairperson. The member, employee, or agent of the  
9 commission shall not take action on behalf of the commission  
10 with respect to that person.

11 (h) A licensee or applicant shall not knowingly initiate a  
12 negotiation for, or discussion of, employment with a member,  
13 employee, or agent of the commission. A licensee or applicant  
14 who initiates a negotiation or discussion about employment shall  
15 immediately provide written notice of the details of the  
16 negotiation or discussion to the chairperson as soon as that  
17 person becomes aware that the negotiation or discussion has been  
18 initiated with a member, employee, or agent of the commission.

19 (i) A member, employee, or agent of the commission, or  
20 former member, employee, or agent of the commission, shall not  
21 disseminate or otherwise disclose any material or information in



1 the possession of the commission that the commission considers  
2 confidential, unless specifically authorized to do so by the  
3 chairperson or the commission.

4 (j) A member, employee, or agent of the commission or a  
5 parent, spouse, sibling, or child of a member, employee, or  
6 agent of the commission shall not accept any gift, gratuity,  
7 compensation, travel, lodging, or anything of value, directly or  
8 indirectly, from any licensee, applicant, or any affiliate or  
9 representative of an applicant or licensee, unless the  
10 acceptance conforms to a written policy or directive issued by  
11 the chairperson or the commission. Any member, employee, or  
12 agent of the commission who is offered or receives any gift,  
13 gratuity, compensation, travel, lodging, or anything of value,  
14 directly or indirectly, from any licensee or any applicant or  
15 affiliate or representative of an applicant or licensee shall  
16 immediately provide written notification of the details to the  
17 chairperson.

18 (k) A licensee or applicant, or affiliate or  
19 representative of an applicant or licensee, shall not, directly  
20 or indirectly, knowingly give or offer to give any gift,  
21 gratuity, compensation, travel, lodging, or anything of value to



1 any member, employee, or agent of the commission that the  
2 member, employee, or agent of the commission is prohibited from  
3 accepting under subsection (j).

4 (l) A member, employee, or agent of the commission shall  
5 not engage in any conduct that constitutes a conflict of  
6 interest, and shall immediately advise the chairperson in  
7 writing of the details of any incident or circumstances that  
8 would present the appearance of a conflict of interest with  
9 respect to the performance of commission-related work or duty of  
10 the member, employee, or agent of the commission.

11 (m) A member, employee, or agent of the commission who is  
12 approached and offered a bribe in violation of this chapter  
13 shall immediately provide a written account of the details of  
14 the incident to the chairperson and to a law enforcement officer  
15 of a law enforcement agency having jurisdiction.

16 (n) A member, employee, or agent of the commission shall  
17 disclose past involvement with any casino interest in the past  
18 five years and shall not engage in political activity or  
19 politically-related activity during the duration of the person's  
20 appointment or employment.



1 (o) A former member, employee, or agent of the commission  
2 may appear before the commission as a witness testifying as to  
3 factual matters or actions handled by the member, employee, or  
4 agent during the person's tenure as a member, employee, or agent  
5 of the commission. The member, employee, or agent of the  
6 commission shall not receive compensation for such an appearance  
7 other than a standard witness fee and reimbursement for travel  
8 expenses as established by statute or court rule.

9 (p) A licensee or applicant or any affiliate or  
10 representative of an applicant or licensee shall not engage in  
11 ex parte communications concerning a pending application,  
12 license, or enforcement action with members of the commission.  
13 A member of the commission shall not engage in any ex parte  
14 communications with a licensee or an applicant, or with any  
15 affiliate or representative of an applicant or licensee,  
16 concerning a pending application, license, or enforcement  
17 action.

18 (q) Any commission member, licensee, or applicant, or  
19 affiliate or representative of a commission member, licensee, or  
20 applicant, who receives any ex parte communication in violation  
21 of subsection (p), or who is aware of an attempted communication



1 in violation of subsection (p), shall immediately report details  
2 of the communication or attempted communication in writing to  
3 the chairperson.

4 (r) Any member of the commission who receives an ex parte  
5 communication that attempts to influence that member's official  
6 action shall disclose the source and content of the  
7 communication to the chairperson. The chairperson may  
8 investigate or initiate an investigation of the matter with the  
9 assistance of the attorney general and law enforcement to  
10 determine if the communication violates subsection (p) or (q) or  
11 other state law. The disclosure under this section and the  
12 investigation shall remain confidential. Following an  
13 investigation, the chairperson shall advise the governor or the  
14 commission, or both, of the results of the investigation and may  
15 recommend action, as the chairperson considers appropriate.

16 (s) A new or current employee or agent of the commission  
17 shall obtain written permission from the executive director  
18 before continuing outside employment held at the time the  
19 employee begins to work for the commission. Permission shall be  
20 denied, or permission previously granted shall be revoked, if  
21 the nature of the work is considered to create a possible



1 conflict of interest or otherwise interferes with the duties of  
2 the employee or agent for the commission.

3 (t) An employee or agent of the commission granted  
4 permission for outside employment shall not conduct any business  
5 or perform any activities, including solicitation, related to  
6 outside employment on premises used by the commission or during  
7 the employee's working hours for the commission.

8 (u) Whenever the chairperson is required to file  
9 disclosure forms or report in writing the details of any  
10 incident or circumstance pursuant to this section, the  
11 chairperson shall file the forms or reports to the commission.

12 (v) The chairperson shall report any action the  
13 chairperson has taken or contemplates taking under this section,  
14 with respect to an employee or agent or former employee or  
15 former agent, to the commission at the next meeting of the  
16 commission. The commission may direct the executive director to  
17 take additional or different action.

18 (w) No member, employee, or agent of the commission may  
19 participate in or wager on any gambling game conducted by any  
20 licensee or applicant, or any affiliate of an applicant or



1 licensee, in the State or in any other jurisdiction, except as  
2 follows:

3 (1) A member, employee, or agent of the commission may  
4 participate in and wager on a gambling game conducted  
5 by a licensee under this chapter, to the extent  
6 authorized by the chairperson or commission as part of  
7 the person's surveillance, security, or other official  
8 duties for the commission; and

9 (2) A member, employee, or agent of the commission shall  
10 advise the chairperson at least twenty-four hours in  
11 advance if the person plans to be present in a casino  
12 in this State, or in another jurisdiction, operated by  
13 a licensee, applicant, or affiliate of a licensee or  
14 applicant, outside the scope of their official duties  
15 for the commission.

16 (x) Violation of this section by a licensee, applicant, or  
17 affiliate or representative of a licensee or applicant, may  
18 result in denial of the application for licensure, revocation or  
19 suspension of license, or other disciplinary action by the  
20 commission.



1           (y) Violation of this section by a member of the  
2 commission may result in disqualification or constitute cause  
3 for removal under section     -3(d) or other disciplinary action  
4 as determined by the commission.

5           (z) A violation of this section by an employee or agent of  
6 the commission shall not result in termination of employment or  
7 require other disciplinary action if the commission determines  
8 that the conduct involved does not violate the purpose of this  
9 chapter. Employment shall be terminated:

10           (1) If the employee or agent is a spouse, parent, child,  
11                or spouse of a child of a commission member; or

12           (2) If, after being offered employment or having begun  
13                employment with the commission, the employee or agent  
14                intentionally acquires a financial interest in a  
15                licensee or applicant, or affiliate or representative  
16                of a licensee or applicant.

17           (aa) If a financial interest in a licensee or applicant,  
18                or affiliate or representative of a licensee or applicant, is  
19                acquired by:

20           (1) An employee or agent that has been offered employment  
21                with the commission;



1           (2) An employee of the commission; or

2           (3) The employee's or agent's spouse, parent, or child;

3 through no intentional action of the employee or agent, the

4 employee or agent shall have up to thirty days to divest or

5 terminate the financial interest. Employment may be terminated

6 if the interest has not been divested after thirty days.

7           (bb) Violation of this section does not create a civil

8 cause of action.

9           (cc) As used in this section:

10 "Outside employment" includes the following:

11           (1) Operation of a proprietorship;

12           (2) Participation in a partnership or group business

13 enterprise; or

14           (3) Performance as a director or corporate officer of any

15 for-profit corporation, or banking or credit

16 institution.

17 "Political activity" or "politically related activity"

18 includes any of the following:

19           (1) Using the person's official authority or influence for

20 the purpose of interfering with or affecting the

21 result of an election;



- 1           (2) Knowingly soliciting, accepting, or receiving
- 2           political contributions from any person;
- 3           (3) Running for nomination or as a candidate for election
- 4           to a partisan political office; or
- 5           (4) Knowingly soliciting or discouraging the participation
- 6           in any political activity of any person who is:
- 7           (A) Applying for any compensation, grant, contract,
- 8           ruling, license, permit, or certificate pending
- 9           before the commission; or
- 10          (B) The subject of or a participant in an ongoing
- 11          audit, investigation, or enforcement action being
- 12          carried out by the commission.

13           § -7 Authorization of limited gaming. (a) Casino

14 gaming shall only be permitted in one casino facility in the

15 Waikiki area on the island of Oahu. Any application for a

16 casino license to operate the casino facility shall include a

17 casino facility development plan for the casino facility.

18           (b) The commission shall adopt the necessary rules and

19 make applications available for a casino license to operate a

20 casino facility within one hundred and twenty days of its

21 appointment. Applications for a casino license shall be



1 submitted to the commission no later than sixty days after the  
 2 date applications are made available. The commission shall  
 3 select the applicant who best meets the criteria pursuant to  
 4 section -9 no later than ninety days after the final date  
 5 applications must be submitted to the commission. If a selected  
 6 applicant meets all the requirements of this chapter, the  
 7 commission shall issue a license to the applicant within one  
 8 hundred and twenty days after the date the applicant is  
 9 selected.

10 § -8 Application for casino license. (a) A person,  
 11 including qualifiers, may apply to the commission for a casino  
 12 license to conduct a casino gaming operation in the Waikiki area  
 13 on Oahu. The application shall be made under oath on forms  
 14 provided by the commission and shall contain information as  
 15 prescribed by the commission, including the following:

- 16 (1) The name, business address, telephone number, social  
 17 security number and, where applicable, the federal tax  
 18 identification number of the applicant and every  
 19 qualifier;
- 20 (2) An identification of any business, including, if  
 21 applicable, the state of incorporation or



1 registration, in which the applicant or qualifier has  
2 an equity interest of more than five per cent. If the  
3 applicant or qualifier is a corporation, partnership  
4 or other business entity, the applicant or qualifier  
5 shall identify any other corporation, partnership, or  
6 other business entity in which it has an equity  
7 interest of more than five per cent, including, if  
8 applicable, the state of incorporation or  
9 registration. The applicant or qualifier may comply  
10 with this paragraph by filing a copy of the  
11 applicant's or qualifier's registration with the  
12 United States Securities and Exchange Commission if  
13 the registration contains the information required by  
14 this paragraph;

- 15 (3) Whether the applicant or qualifier has been indicted,  
16 convicted, pled guilty or nolo contendere, or  
17 forfeited bail for a felony within the last ten years  
18 or a misdemeanor involving gambling, theft, or fraud  
19 within the last ten years, not including traffic  
20 violations, and including the date, the name and  
21 location of the court, arresting agency, prosecuting



1           agency, the case caption, the docket number, the  
2           offense, the disposition, and the location and length  
3           of incarceration;

4           (4) Whether the applicant or qualifier has ever been  
5           granted any license or certificate issued by a  
6           licensing authority in the State, or any other  
7           jurisdiction, that has been restricted, suspended,  
8           revoked, or not renewed and a statement describing the  
9           facts and circumstances concerning the application,  
10          denial, restriction, suspension, revocation, or  
11          nonrenewal, including the licensing or codifying  
12          authority, the date each action was taken, and the  
13          reason for each action;

14          (5) Whether the applicant or qualifier, within the last  
15          ten years, has filed or had filed against it a civil  
16          or administrative action or proceeding in bankruptcy  
17          or has, within the last ten years, been involved in  
18          any formal process to adjust, defer, suspend, or  
19          otherwise address the payment of any debt, including  
20          the date of filing, the name and location of the



1 court, the case caption, the docket number, and the  
2 disposition;

3 (6) Whether the applicant or qualifier, within the last  
4 five tax years, has failed to pay any final amount of  
5 tax due and payable under federal, state, or local  
6 law, after exhaustion of all interagency appeals  
7 processes, including the amount, type of tax, the  
8 taxing jurisdiction, and time periods involved;

9 (7) A statement listing the names and titles of all public  
10 officials or officers of any unit of state government  
11 or county government in the jurisdiction in which the  
12 casino facility is to be located, and the spouses,  
13 parents, and children of those public officials or  
14 officers who, directly or indirectly, own any  
15 financial interest in, have any beneficial interest  
16 in, are the creditors of or hold any debt instrument  
17 issued by, or hold or have an interest in any  
18 contractual or service relationship with, the  
19 applicant or a qualifier. As used in this paragraph,  
20 "public official" or "officer" does not include a



1 person who would be listed solely because of the  
2 person's state or federal military service;

3 (8) The name and business telephone number of any  
4 attorney, counsel, or any other person representing an  
5 applicant or a qualifier in matters before the  
6 commission; and

7 (9) For the applicant only, a description of any proposed  
8 or approved casino gaming facility, including the  
9 economic benefit to the community, anticipated or  
10 actual number of employees, any statement from an  
11 applicant regarding compliance with federal and state  
12 affirmative action guidelines, projected or actual  
13 admissions, projected or actual gross receipts, and  
14 scientific market research, if any.

15 (b) Information provided on the application shall be used  
16 as the basis for a background investigation that the commission  
17 shall conduct with respect to each applicant and qualifier. An  
18 incomplete application shall be cause for denial of a license by  
19 the commission.

20 (c) Applicants shall submit with their application a plan  
21 for training residents of the State for jobs that are available



1 at the casino facility. The plan shall take into consideration  
2 the need to provide training to low-income persons to enable  
3 them to qualify for jobs that will be created by the casino  
4 facility.

5 (d) Each applicant and qualifier shall disclose the  
6 identity of every person, association, trust, or corporation  
7 having a greater than five per cent direct or indirect financial  
8 interest in the casino gaming operation for which the license is  
9 sought. If the disclosed entity is a trust, the application  
10 shall disclose the names and addresses of the beneficiaries; if  
11 a corporation, the names and addresses of all stockholders and  
12 directors; if a partnership, the names and addresses of all  
13 partners, both general and limited.

14 (e) An application fee of \$50,000 shall be paid to the  
15 commission by an applicant at the time of filing to defray the  
16 costs associated with an applicant and qualifier's background  
17 investigation conducted by the commission. If the costs of the  
18 investigation exceed \$50,000, the applicant shall pay the  
19 additional amount to the commission. If the costs of the  
20 investigation are less than \$50,000, the applicant shall receive  
21 a refund of the remaining amount. All information, records,



1 interviews, reports, statements, memoranda, or other data  
2 supplied to or used by the commission in the course of its  
3 review or investigation of an application for a license shall be  
4 confidential, used only for the purpose of evaluating an  
5 applicant, and exempt from public disclosure required by chapter  
6 92F, and shall not be admissible as evidence, nor discoverable  
7 in any action of any kind in any court or before any tribunal,  
8 commission, agency, or person, except for any action deemed  
9 necessary by the commission.

10 (f) An applicant shall be ineligible to receive a casino  
11 license if:

12 (1) The applicant has been convicted of a felony under the  
13 laws of this State, any other state, or the United  
14 States;

15 (2) The person has been convicted of any violation under  
16 part III of chapter 712, or substantially similar laws  
17 of another jurisdiction;

18 (3) The person has knowingly submitted an application for  
19 a license under this chapter that contains false  
20 information;

21 (4) The person is a member of the commission;



1           (5) The firm or corporation applying for a license employs  
2           a person described in paragraph (1), (2), (3), or (4)  
3           who participates in the management or operation of  
4           gaming operations authorized under this chapter; or

5           (6) A license of the applicant issued under this chapter,  
6           or a license to own or operate gaming facilities in  
7           any other jurisdiction, has been revoked.

8           § -9 Criteria for award of a casino license. (a) The  
9 license to operate a casino facility shall be awarded based upon  
10 the following criteria:

11           (1) Whether the applicant's casino facility development  
12           plan for the casino facility will increase tourism,  
13           generate jobs, and provide revenue to the local  
14           economy;

15           (2) Whether the applicant has the financial resources and  
16           ability to construct the casino facility, based upon  
17           the submitted financial data and other facts;

18           (3) Whether the applicant has the financial ability to  
19           purchase and maintain adequate liability and casualty  
20           insurance and to provide an adequate surety bond;



- 1           (4) The applicant's capitalization to develop, construct,  
2           maintain, and operate the proposed casino facility;
- 3           (5) Whether the applicant has adequate capitalization to  
4           develop, construct, maintain, and operate, for the  
5           duration of the license, the proposed casino facility,  
6           in accordance with the requirements of this chapter  
7           and rules adopted by the commission, and to  
8           responsibly pay off its secured and unsecured debts,  
9           in accordance with its financing agreement and other  
10          contractual obligations;
- 11          (6) The extent to which the applicant or any of its  
12          qualifiers demonstrate that they have assisted the  
13          State in developing casino gaming through their  
14          commitment of resources to support, promote, and  
15          establish casino gaming in the State. Expenditures of  
16          time, money, and effort shall all be considered in  
17          connection with this criterion. The timing of  
18          participation shall further influence this criterion,  
19          with early participation and contribution to the  
20          casino development program receiving more favorable  
21          consideration;



- 1           (7) The extent to which the applicant or any of its  
2           qualifiers demonstrate that they have at least four  
3           years of experience in helping to revitalize an urban  
4           area by successfully planning, developing, and opening  
5           a land-based casino in any state that previously did  
6           not permit casino gaming. The experience in planning,  
7           developing, and opening a land-based casino in an  
8           urban area in the past five years shall receive more  
9           favorable consideration for this criterion. For  
10          purposes of this paragraph, "urban area" means a  
11          jurisdiction with a population of at least seven  
12          hundred fifty thousand;
- 13          (8) Whether the applicant or any of its qualifiers has  
14          been indicted, convicted, pled guilty or nolo  
15          contendere, or forfeited bail for a felony within the  
16          last ten years or a misdemeanor involving gambling,  
17          theft, or fraud within the last ten years, not  
18          including traffic violations;
- 19          (9) Whether the applicant or any of its qualifiers, within  
20          the last ten years, has filed, or had filed against  
21          it, a proceeding for bankruptcy or, within the last



1           ten years, has been involved in any formal process to  
2           adjust, defer, suspend, or otherwise address the  
3           payment of any debt;

4           (10) Whether an applicant or any of its qualifiers, within  
5           the last five tax years, has failed to pay any final  
6           amount of tax due and payable under federal, state, or  
7           local law, after exhaustion of all interagency appeals  
8           processes; and

9           (11) Whether the applicant meets other standards for the  
10           issuance of a casino license that the commission may  
11           have adopted by rule. Any rules adopted pursuant to  
12           chapter 91 shall not be arbitrary, capricious, or  
13           contradictory to the expressed provisions of this  
14           chapter and shall further define and clarify the above  
15           listed conditions, rather than create new conditions  
16           for licensure.

17           (b) To demonstrate financial ability, the applicant may  
18           include the economic resources of the person or persons who will  
19           operate the casino facility and any qualifiers.

1 (c) Each applicant and qualifier shall submit with the  
2 application two sets of the applicant's fingerprints on forms  
3 provided by the commission.

4 (d) The commission may revoke the casino license if the  
5 licensee fails to begin regular casino gaming operations within  
6 twelve months of receipt of the commission's approval of the  
7 application or twelve months after a certificate of occupancy  
8 for the casino facility is first issued, whichever is later,  
9 upon a finding by the commission that the casino license  
10 revocation is in the best interest of the State.

11 (e) The commission shall establish a process to facilitate  
12 and expedite the approval of the necessary licenses and permits.  
13 The commission may establish its own procedures for the issuance  
14 of liquor licenses for any holder of a casino license under this  
15 chapter; provided that all state laws and county ordinances  
16 relating to liquor are met.

17 (f) Nothing in this chapter shall be interpreted to  
18 prohibit a licensed owner from operating a school for the  
19 training of any occupation licensee.

20 § -10 Bond of licensee. Before a casino license is  
21 issued, the licensee shall file a bond in the sum of \$200,000



1 with the department. The bond shall be used to guarantee that  
2 the licensee faithfully makes the payments, keeps books and  
3 records, makes reports, and conducts games of chance, in  
4 conformity with this chapter and rules adopted by the  
5 commission. The bond shall not be canceled by a surety on less  
6 than thirty days' notice in writing to the commission. If a  
7 bond is canceled and the licensee fails to file a new bond with  
8 the commission in the required amount on or before the effective  
9 date of cancellation, the licensee's license shall be revoked.  
10 The total and aggregate liability of the surety on the bond  
11 shall be limited to the amount specified in the bond.

12 § -11 Application deficiency. (a) If, in the review of  
13 an application submitted under this chapter, the executive  
14 director identifies an apparent deficiency that, if true, would  
15 require denial of the license or the disqualification of a  
16 qualifier, the executive director shall notify the affected  
17 applicant or qualifier in writing of the apparent deficiency.  
18 The applicant or qualifier may then request an informal  
19 conference with the executive director to discuss the factual  
20 basis of the apparent deficiency.



1           (b) The executive director shall provide the applicant or  
2           qualifier a reasonable period of time to correct the apparent  
3           deficiency. If the apparent deficiency is not corrected within  
4           the reasonable time period, the executive director shall find  
5           that the apparent deficiency has not been corrected. Following  
6           this finding, the affected applicant or qualifier shall have an  
7           opportunity to appeal the executive director's finding of an  
8           apparent deficiency to the commission. The commission shall  
9           conduct an investigative hearing, pursuant to section     -16 and  
10          in accordance with rules adopted under this chapter, to  
11          determine whether there is sufficient evidence to support an  
12          apparent deficiency finding. At the hearing, the burden of  
13          proof shall be on the executive director to demonstrate that the  
14          finding of an apparent deficiency is supported by law and facts.  
15          Any finding by the commission about an applicant or a  
16          qualifier's apparent deficiency shall not constitute a final  
17          determination by the commission as to the suitability of the  
18          applicant to hold a license, or the suitability of a qualifier  
19          to hold an ownership interest in a casino applicant.

20          (c) At any time prior to a finding by the commission that  
21          a qualifier is unsuitable to hold an ownership interest in a



1 casino applicant, a qualifier shall have the ability to sell its  
2 ownership interest in the casino applicant to the casino  
3 applicant, another qualifier, or a third party.

4 (d) A qualifier who has been issued a finding of an  
5 apparent deficiency shall have the right to request that the  
6 commission expand the apparent deficiency hearing under this  
7 section to include a determination of the qualifier's  
8 suitability to hold an ownership interest in the casino license  
9 applicant. If such a request is made, the commission shall  
10 determine the suitability of the affected qualifier separate  
11 from the suitability of the casino applicant and any of its  
12 other qualifiers. A request by a qualifier for an extended  
13 hearing pursuant to this section shall not prevent the  
14 commission from issuing a license to the applicant. Until the  
15 commission determines that a qualifier under this section is  
16 suitable to hold an ownership interest in the casino applicant,  
17 the casino applicant or licensee shall not do any of the  
18 following:

19 (1) Make any direct or indirect payments or distributions  
20 of revenue or other benefits to the qualifier that are



1 related in any way to the qualifier's interest in the  
2 applicant; or

3 (2) Pay any direct or indirect compensation to the  
4 qualifier for services rendered to the applicant,  
5 unless specifically approved and authorized by the  
6 commission.

7 § -12 Institutional investor. (a) Unless the  
8 commission determines that an institutional investor is  
9 unqualified, an institutional investor holding less than ten per  
10 cent of the equity securities or ten per cent of the debt  
11 securities of a casino licensee's affiliate or affiliated  
12 company that is related in any way to the financing of the  
13 casino licensee, shall be granted a waiver of the eligibility  
14 and suitability requirements if:

15 (1) The securities represent a percentage of the  
16 outstanding debt of the affiliate or affiliated  
17 company not exceeding twenty per cent, or a percentage  
18 of any issue of the outstanding debt of the affiliate  
19 or affiliated company not exceeding fifty per cent;



1           (2) The securities are those of a publicly traded  
2           corporation and its holdings of the securities were  
3           purchased for investment purposes only; and

4           (3) Upon request by the commission, the institutional  
5           investor files with the commission a certified  
6           statement that it has no intention of influencing or  
7           affecting the affairs of the issuer, the casino  
8           licensee, or its affiliate or affiliated company.

9           (b) The commission may grant a waiver under this section  
10          to an institutional investor holding a higher percentage of  
11          securities than allowed in subsection (a) upon a showing of good  
12          cause and if the conditions specified in subsection (a) are met.

13          (c) An institutional investor granted a waiver under this  
14          section that subsequently intends to influence or affect the  
15          affairs of the issuer shall provide notice to the commission and  
16          file an application for a determination of eligibility and  
17          suitability before taking any action that may influence or  
18          affect the affairs of the issuer.

19          (d) Notwithstanding any provisions of this chapter, an  
20          institutional investor may vote on all matters that are put to  
21          the vote of the outstanding security holders of the issuer.



1           (e) If an institutional investor changes its investment  
2 intent or if the commission finds that the institutional  
3 investor is unqualified, no action other than divestiture of the  
4 security holdings shall be taken until there has been compliance  
5 with this chapter.

6           (f) The casino licensee or an affiliate or affiliated  
7 company of the casino licensee shall immediately notify the  
8 commission of any information concerning an institutional  
9 investor holding its equity or debt securities that may affect  
10 the eligibility and suitability of the institutional investor  
11 for a waiver under this section.

12           (g) If the commission finds that an institutional  
13 investor, holding any security of an affiliate or affiliated  
14 company of a casino licensee that is related in any way to the  
15 financing of the casino licensee, fails to comply with the  
16 requirements of this section, or if at any time the commission  
17 finds that, by reason of the extent or nature of its holdings,  
18 an institutional investor is in a position to exercise a  
19 substantial impact upon the controlling interests of a casino  
20 licensee, the commission may take any necessary action to  
21 protect the public interest, including requiring the



1 institutional investor to satisfy the eligibility and  
2 suitability requirements under sections -8, -9, and  
3 -10.

4 § -13 **Supplier's licenses.** (a) No person shall furnish  
5 in excess of \$500,000 worth of equipment, devices, or supplies  
6 to a licensed casino gaming operation under this chapter unless  
7 the person has first obtained a supplier's license pursuant to  
8 this section. The commission may issue a supplier's license to  
9 any person, firm, or corporation who pays a nonrefundable  
10 application fee, as set by the commission, upon a determination  
11 by the commission that the applicant is eligible for a  
12 supplier's license and upon payment by the applicant of a \$5,000  
13 license fee. Supplier's licenses shall be renewable annually  
14 upon payment of the \$5,000 annual license fee and a  
15 determination by the commission that the licensee continues to  
16 meet all of the requirements of this chapter.

17 (b) The holder of a supplier's license may sell or lease,  
18 or contract to sell or lease, gaming equipment and supplies to  
19 any licensee involved in the ownership or management of casino  
20 gaming operations.



1 (c) Casino gaming supplies and equipment shall not be  
2 distributed unless supplies and equipment conform to standards  
3 adopted by rules of the commission.

4 (d) A person, firm, or corporation shall be ineligible to  
5 receive a supplier's license if:

6 (1) The person has been convicted of a felony under the  
7 laws of this State, any other state, or the United  
8 States;

9 (2) The person has been convicted of any violation under  
10 part III of chapter 712, or substantially similar laws  
11 of another jurisdiction;

12 (3) The person has knowingly submitted an application for  
13 a license under this chapter that contains false  
14 information;

15 (4) The person is a member of the commission;

16 (5) The firm or corporation is one in which a person  
17 described in paragraph (1), (2), (3), or (4) is an  
18 officer, director, or managerial employee;

19 (6) The firm or corporation employs a person described in  
20 paragraph (1), (2), (3), or (4), that participates in



1 the management or operation of casino gaming  
2 authorized under this chapter; or  
3 (7) The license of the person, firm, or corporation issued  
4 under this chapter, or a license to own or operate  
5 casino gaming facilities in any other jurisdiction,  
6 has been revoked.  
7 (e) A supplier shall:  
8 (1) Furnish to the commission a list of all equipment,  
9 devices, and supplies offered for sale or lease in  
10 connection with casino games authorized under this  
11 chapter;  
12 (2) Keep books and records for the furnishing of  
13 equipment, devices, and supplies to casino gaming  
14 operations separate and distinct from any other  
15 business that the supplier might operate;  
16 (3) File quarterly returns with the commission listing all  
17 sales and leases;  
18 (4) Permanently affix its name to all its equipment,  
19 devices, and supplies, used for casino gaming  
20 operations; and



1 (5) File an annual report listing its inventories of  
2 casino gaming equipment, devices, and supplies.

3 (f) Any person who knowingly makes a false statement on an  
4 application is guilty of a petty misdemeanor.

5 (g) Any casino gaming equipment, devices, or supplies  
6 provided by any licensed supplier may either be repaired in the  
7 casino facility or be removed from the casino facility to a  
8 facility owned by the holder of a casino license for repair.  
9 Any supplier's equipment, devices, and supplies that are used by  
10 any person in an unauthorized gaming operation shall be  
11 forfeited to the county.

12 § -14 Occupational licenses. (a) The commission may  
13 issue an occupational license to an applicant upon:

14 (1) The payment of a nonrefundable application fee set by  
15 the commission;

16 (2) A determination by the commission that the applicant  
17 is eligible for an occupational license; and

18 (3) Payment of an annual license fee in an amount set by  
19 the commission.

20 (b) To be eligible for an occupational license, an  
21 applicant shall:



- 1           (1) Be at least twenty-one years of age if the applicant  
2           performs any function involved in casino gaming by  
3           patrons. Any applicant seeking an occupational  
4           license for a non-gaming function shall be at least  
5           eighteen years of age;
- 6           (2) Not have been convicted of a felony offense in any  
7           jurisdiction or a crime involving dishonesty or moral  
8           turpitude;
- 9           (3) Have demonstrated a level of skill or knowledge that  
10          the commission determines to be necessary to operate  
11          casino games in a casino facility; and
- 12          (4) Have met standards for the holding of an occupational  
13          license, as provided in rules adopted by the  
14          commission, including background inquiries and other  
15          requirements.
- 16          (c) Each application for an occupational license shall be  
17          on forms prescribed by the commission and shall contain all  
18          information required by the commission. The applicant shall set  
19          forth in the application whether the applicant:
- 20               (1) Has been issued prior gaming-related licenses in any  
21               jurisdiction;



1           (2) Has been licensed in any other jurisdiction under any  
2           other name, and, if so, the name and the applicant's  
3           age at the time; and

4           (3) Has had a permit or license issued from any other  
5           jurisdiction suspended, restricted, or revoked, and,  
6           if so, for what period of time.

7           (d) Each applicant shall submit with the application two  
8           sets of the applicant's fingerprints. The commission shall  
9           charge each applicant a fee to defray the costs associated with  
10          the search and classification of fingerprints obtained by the  
11          commission with respect to the application.

12          (e) The commission may refuse to grant an occupational  
13          license to any person:

14           (1) Who is unqualified to perform the duties required;

15           (2) Who fails to disclose or states falsely any  
16           information called for in the application;

17           (3) Who has been found guilty of a violation of this  
18           chapter or whose prior casino gaming related license  
19           or application has been suspended, restricted,  
20           revoked, or denied for just cause in any other  
21           jurisdiction; or



- 1           (4) For any other just cause.
- 2           (f) The commission may suspend, revoke, or restrict any
- 3 occupational license:
- 4           (1) For any violation of this chapter;
- 5           (2) For any violation of the rules of the commission;
- 6           (3) For any cause which, if known to the commission, would
- 7           have disqualified the applicant from receiving a
- 8           license;
- 9           (4) For default in the payment of any obligation or debt
- 10           due to the State or the county; or
- 11           (5) For any other just cause.
- 12           (g) A person who knowingly makes a false statement on an
- 13 application is guilty of a petty misdemeanor.
- 14           (h) Any license issued pursuant to this section shall be
- 15 valid for a period of one year from the date of issuance and
- 16 shall be renewable annually upon payment of the annual license
- 17 fee and a determination by the commission that the licensee
- 18 continues to meet all of the requirements of this chapter.
- 19           (i) Any training provided for an occupational licensee may
- 20 be conducted either in a licensed casino facility or at a school



1 with which a licensed casino facility owner has entered into an  
2 agreement.

3       § -15 **Annual report.** The commission shall file a  
4 written annual report with the governor and the legislature at  
5 least sixty days prior to the close of each fiscal year and  
6 shall file any additional reports that the governor or the  
7 legislature requests. The annual report shall include:

- 8       (1) A statement of receipts and disbursements related to  
9           casino gaming pursuant to this chapter;
- 10       (2) Actions taken by the commission; and
- 11       (3) Any additional information and recommendations that  
12           the commission may deem valuable or which the governor  
13           or the legislature may request.

14       § -16 **Hearings by the commission.** (a) Upon order of  
15 the commission, one of the commission members or a hearings  
16 officer designated by the commission may conduct any hearing  
17 provided for under this chapter related to casino gaming or by  
18 commission rule, and may recommend findings and decisions to the  
19 commission. The record made at the time of the hearing shall be  
20 reviewed by the commission, or a majority thereof, and the



1 findings and decisions of the majority of the commission shall  
2 constitute the order of the commission in that case.

3 (b) Any party aggrieved by an action of the commission  
4 denying, suspending, revoking, restricting, or refusing to renew  
5 a license under this chapter may request a hearing before the  
6 commission. A request for a hearing shall be made to the  
7 commission in writing within five days after service of notice  
8 of the action of the commission. Notice of the actions of the  
9 commission shall be served either by personal delivery or by  
10 certified mail, postage prepaid, to the aggrieved party. Notice  
11 served by certified mail shall be deemed complete on the  
12 business day following the date of the mailing. The commission  
13 shall conduct all requested hearings promptly and in reasonable  
14 order.

15 § -17 Conduct of casino gaming. Casino gaming may be  
16 conducted by the holder of a casino license, subject to the  
17 following:

- 18 (1) The site of the casino facility shall be restricted to  
19 the Waikiki area on the island of Oahu;
- 20 (2) The casino facility shall be a standalone facility and  
21 shall not be located within a hotel;



1           (3) The term of the casino license shall be ten years and  
2                   shall be renewable for additional ten-year terms  
3                   according to rules adopted by the commission;

4           (4) The casino facility shall be operated as a member-only  
5                   facility that admits bona fide members only; provided  
6                   that:

7                   (A) A bona fide member may sponsor the admission of a  
8                           guest to the casino facility on a one-day basis;  
9                           provided that the guest:

10                           (i) Pays a \$20 one-day admission pass for each  
11                                   one-day of admission to the casino facility;  
12                                   and

13                           (ii) Registers to stay at least one day and one  
14                                   night at a transient accommodation, such as  
15                                   a hotel, on the island of Oahu for each one-  
16                                   day admission to the casino facility; and

17                   (B) The casino facility adopts and makes available to  
18                           the general public bylaws or rules governing  
19                           membership;

20           (5) The casino facility shall open no earlier than 8:00  
21                   a.m. and shall close no later than 4:00 a.m. daily, at



- 1           which time all members and guests shall leave the  
2           casino facility;
- 3           (6) Minimum and maximum wagers on games shall be set by  
4           the casino licensee;
- 5           (7) Agents of the commission may enter and inspect any  
6           casino facility at any time for the purpose of  
7           determining compliance with this chapter;
- 8           (8) Employees of the commission shall have the right to be  
9           present in a casino facility or on adjacent facilities  
10          under the control of the casino licensee;
- 11          (9) Gaming equipment and supplies customarily used in  
12          conducting casino gaming shall be purchased or leased  
13          only from suppliers licensed under this chapter;
- 14          (10) Persons licensed under this chapter shall permit no  
15          form of wagering on games, except as permitted by this  
16          chapter;
- 17          (11) Wagers may be received only from a person present in a  
18          licensed casino facility. No person present in a  
19          licensed casino facility shall place or attempt to  
20          place a wager on behalf of another person who is not  
21          present in the casino facility;



- 1           (12) Wagering shall not be conducted with money or other  
2                   negotiable currency, except for wagering on slot  
3                   machines;
- 4           (13) A person under twenty-one years of age shall not be  
5                   permitted in an area of a casino facility where casino  
6                   gaming is being conducted, except for a person at  
7                   least eighteen years of age who is an employee of the  
8                   casino facility. No employee under twenty-one years  
9                   of age shall perform any function involved in casino  
10                  gaming by patrons. No person under twenty-one years  
11                  of age shall be permitted to make a wager under this  
12                  chapter;
- 13          (14) All tokens, chips, or electronic cards used to make  
14                  wagers shall only be purchased from a licensed owner  
15                  within the casino facility. The tokens, chips, or  
16                  electronic cards may be purchased by means of an  
17                  agreement under which the owner extends credit to the  
18                  patron. The tokens, chips, or electronic cards shall  
19                  be used while within a casino facility only for the  
20                  purpose of making wagers on authorized games; and



1           (15) In addition to the above, casino gaming shall be  
2                           conducted in accordance with all rules adopted by the  
3                           commission.

4           §   -18 Collection of amounts owing under credit  
5 agreements. Notwithstanding any other law to the contrary, a  
6 casino licensee who extends credit to a casino gaming patron  
7 shall be expressly authorized to institute a cause of action to  
8 collect any amounts due and owing under the extension of credit  
9 as well as the licensee's costs, expenses, and reasonable  
10 attorney's fees incurred in collection.

11          §   -19 The state gaming fund; disposition of taxes  
12 collected. There is established within the state treasury the  
13 state gaming fund to be administered by the Hawaii gaming  
14 control commission into which shall be deposited all fees and  
15 fines collected under this chapter and general excise tax  
16 revenues pursuant to section 237-31. Moneys from the state  
17 gaming fund shall be used to fund:

- 18           (1) A compulsive gamblers program;  
19           (2) Public security at the casino facility; and  
20           (3) Administrative expenses of the commission;



1 provided that not more than one per cent of the tax revenues  
2 collected in any fiscal year pursuant to section 237- shall  
3 be expended to fund the public security at the casino and the  
4 administrative expenses of the commission.

5 § -20 Legislative oversight. (a) After the first  
6 fiscal year of operation, the auditor shall conduct a financial  
7 and social assessment of gaming operations. Thereafter, the  
8 auditor shall conduct biennial financial and social assessments  
9 of gaming operations. In conducting the assessments, the  
10 auditor shall identify the financial impacts of gaming on the  
11 state economy and the social impacts of gaming upon the  
12 community. The auditor shall submit a report of its findings  
13 and recommendations to the legislature no later than twenty days  
14 prior to the convening of the next regular session after the  
15 initial and biennial assessments are completed.

16 (b) After the first full fiscal year of operation, the  
17 auditor shall conduct a program and financial audit of the  
18 Hawaii gaming commission. Thereafter, the auditor shall conduct  
19 a program and financial audit every four years after the initial  
20 audit is completed.



1 § -21 Compulsive gambler program. The commission shall  
2 create and implement a program to assist individuals who are  
3 identified as compulsive gamblers."

4 SECTION 3. Chapter 712, Hawaii Revised Statutes, is  
5 amended by adding a new section to part III to be appropriately  
6 designated and to read as follows:

7 "§712- Casino gaming; exempted. This part shall not  
8 apply to casino gaming as authorized by chapter ."

9 SECTION 4. Section 84-17, Hawaii Revised Statutes, is  
10 amended by amending subsection (c) to read as follows:

11 "(c) The following persons shall file annually with the  
12 state ethics commission a disclosure of financial interests:

13 (1) The governor, the lieutenant governor, the members of  
14 the legislature, and delegates to the constitutional  
15 convention; provided that delegates to the  
16 constitutional convention shall only be required to  
17 file initial disclosures;

18 (2) The directors and their deputies, the division chiefs,  
19 the executive directors and the executive secretaries  
20 and their deputies, the purchasing agents and the  
21 fiscal officers, regardless of the titles by which the



- 1           foregoing persons are designated, of every state  
2           agency and department;
- 3           (3) The permanent employees of the legislature and its  
4           service agencies, other than persons employed in  
5           clerical, secretarial, or similar positions;
- 6           (4) The administrative director of the State, and the  
7           assistants in the office of the governor and the  
8           lieutenant governor, other than persons employed in  
9           clerical, secretarial, or similar positions;
- 10          (5) The hearings officers of every state agency and  
11          department;
- 12          (6) The president, the vice presidents, assistant vice  
13          presidents, the chancellors, and the provosts of the  
14          University of Hawaii and its community colleges;
- 15          (7) The superintendent, the deputy superintendent, the  
16          assistant superintendents, the complex area  
17          superintendents, the state librarian, and the deputy  
18          state librarian of the department of education;
- 19          (8) The administrative director and the deputy director of  
20          the courts;



1 (9) The members of every state board or commission whose  
2 original terms of office are for periods exceeding one  
3 year and whose functions are not solely advisory;

4 (10) Candidates for state elective offices, including  
5 candidates for election to the constitutional  
6 convention, provided that candidates shall only be  
7 required to file initial disclosures;

8 (11) The administrator and assistant administrator of the  
9 office of Hawaiian affairs;

10 (12) The Hawaii unmanned aerial systems test site chief  
11 operating officer[+]; [~~+~~and]

12 (13) The members of the school facilities board appointed  
13 by the governor[-]; and

14 (14) The executive director, assistants, officers, and  
15 employees of the Hawaii gaming control commission."

16 SECTION 5. Section 237-13, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§237-13 Imposition of tax. There is hereby levied and  
19 shall be assessed and collected annually privilege taxes against  
20 persons on account of their business and other activities in the  
21 State measured by the application of rates against values of



1 products, gross proceeds of sales, or gross income, whichever is  
2 specified, as follows:

3 (1) Tax on manufacturers.

4 (A) Upon every person engaging or continuing within  
5 the State in the business of manufacturing,  
6 including compounding, canning, preserving,  
7 packing, printing, publishing, milling,  
8 processing, refining, or preparing for sale,  
9 profit, or commercial use, either directly or  
10 through the activity of others, in whole or in  
11 part, any article or articles, substance or  
12 substances, commodity or commodities, the amount  
13 of the tax to be equal to the value of the  
14 articles, substances, or commodities,  
15 manufactured, compounded, canned, preserved,  
16 packed, printed, milled, processed, refined, or  
17 prepared for sale, as shown by the gross proceeds  
18 derived from the sale thereof by the manufacturer  
19 or person compounding, preparing, or printing  
20 them, multiplied by one-half of one per cent.



1           (B) The measure of the tax on manufacturers is the  
2           value of the entire product for sale.

3           (2) Tax on business of selling tangible personal property;  
4           producing.

5           (A) Upon every person engaging or continuing in the  
6           business of selling any tangible personal  
7           property whatsoever, there is likewise hereby  
8           levied, and shall be assessed and collected, a  
9           tax equivalent to four per cent of the gross  
10          proceeds of sales of the business; provided that,  
11          in the case of a wholesaler, the tax shall be  
12          equal to one-half of one per cent of the gross  
13          proceeds of sales of the business; and provided  
14          further that insofar as the sale of tangible  
15          personal property is a wholesale sale under  
16          section 237-4(a)(8), the tax shall be one-half of  
17          one per cent of the gross proceeds. Upon every  
18          person engaging or continuing within this State  
19          in the business of a producer, the tax shall be  
20          equal to one-half of one per cent of the gross



1                   proceeds of sales of the business, or the value  
2                   of the products, for sale.

3                   (B) Gross proceeds of sales of tangible property in  
4                   interstate and foreign commerce shall constitute  
5                   a part of the measure of the tax imposed on  
6                   persons in the business of selling tangible  
7                   personal property, to the extent, under the  
8                   conditions, and in accordance with the provisions  
9                   of the Constitution of the United States and the  
10                  Acts of the Congress of the United States which  
11                  may be now in force or may be hereafter adopted,  
12                  and whenever there occurs in the State an  
13                  activity to which, under the Constitution and  
14                  Acts of Congress, there may be attributed gross  
15                  proceeds of sales, the gross proceeds shall be so  
16                  attributed.

17                  (C) No manufacturer or producer, engaged in such  
18                  business in the State and selling the  
19                  manufacturer's or producer's products for  
20                  delivery outside of the State (for example,  
21                  consigned to a mainland purchaser via common



1 carrier f.o.b. Honolulu), shall be required to  
2 pay the tax imposed in this chapter for the  
3 privilege of so selling the products, and the  
4 value or gross proceeds of sales of the products  
5 shall be included only in determining the measure  
6 of the tax imposed upon the manufacturer or  
7 producer.

8 (D) A manufacturer or producer, engaged in such  
9 business in the State, shall pay the tax imposed  
10 in this chapter for the privilege of selling its  
11 products in the State, and the value or gross  
12 proceeds of sales of the products, thus subjected  
13 to tax, may be deducted insofar as duplicated as  
14 to the same products by the measure of the tax  
15 upon the manufacturer or producer for the  
16 privilege of manufacturing or producing in the  
17 State; provided that no producer of agricultural  
18 products who sells the products to a purchaser  
19 who will process the products outside the State  
20 shall be required to pay the tax imposed in this



1 chapter for the privilege of producing or selling  
2 those products.

3 (E) A taxpayer selling to a federal cost-plus  
4 contractor may make the election provided for by  
5 paragraph (3) (C), and in that case the tax shall  
6 be computed pursuant to the election,  
7 notwithstanding this paragraph or paragraph (1)  
8 to the contrary.

9 (F) The department, by rule, may require that a  
10 seller take from the purchaser of tangible  
11 personal property a certificate, in a form  
12 prescribed by the department, certifying that the  
13 sale is a sale at wholesale; provided that:

14 (i) Any purchaser who furnishes a certificate  
15 shall be obligated to pay to the seller,  
16 upon demand, the amount of the additional  
17 tax that is imposed upon the seller whenever  
18 the sale in fact is not at wholesale; and

19 (ii) The absence of a certificate in itself shall  
20 give rise to the presumption that the sale



1                   is not at wholesale unless the sales of the  
2                   business are exclusively at wholesale.

3           (3) Tax upon contractors.

4           (A) Upon every person engaging or continuing within  
5           the State in the business of contracting, the tax  
6           shall be equal to four per cent of the gross  
7           income of the business.

8           (B) In computing the tax levied under this paragraph,  
9           there shall be deducted from the gross income of  
10          the taxpayer so much thereof as has been included  
11          in the measure of the tax levied under  
12          subparagraph (A), on another taxpayer who is a  
13          contractor, as defined in section 237-6; provided  
14          that any person claiming a deduction under this  
15          paragraph shall be required to show in the  
16          person's return the name and general excise  
17          number of the person paying the tax on the amount  
18          deducted by the person.

19          (C) In computing the tax levied under this paragraph  
20          against any federal cost-plus contractor, there  
21          shall be excluded from the gross income of the



1 contractor so much thereof as fulfills the  
2 following requirements:

3 (i) The gross income exempted shall constitute  
4 reimbursement of costs incurred for  
5 materials, plant, or equipment purchased  
6 from a taxpayer licensed under this chapter,  
7 not exceeding the gross proceeds of sale of  
8 the taxpayer on account of the transaction;  
9 and

10 (ii) The taxpayer making the sale shall have  
11 certified to the department that the  
12 taxpayer is taxable with respect to the  
13 gross proceeds of the sale, and that the  
14 taxpayer elects to have the tax on gross  
15 income computed the same as upon a sale to  
16 the state government.

17 (D) A person who, as a business or as a part of a  
18 business in which the person is engaged, erects,  
19 constructs, or improves any building or  
20 structure, of any kind or description, or makes,  
21 constructs, or improves any road, street,



1 sidewalk, sewer, or water system, or other  
2 improvements on land held by the person (whether  
3 held as a leasehold, fee simple, or otherwise),  
4 upon the sale or other disposition of the land or  
5 improvements, even if the work was not done  
6 pursuant to a contract, shall be liable to the  
7 same tax as if engaged in the business of  
8 contracting, unless the person shows that at the  
9 time the person was engaged in making the  
10 improvements the person intended, and for the  
11 period of at least one year after completion of  
12 the building, structure, or other improvements  
13 the person continued to intend to hold and not  
14 sell or otherwise dispose of the land or  
15 improvements. The tax in respect of the  
16 improvements shall be measured by the amount of  
17 the proceeds of the sale or other disposition  
18 that is attributable to the erection,  
19 construction, or improvement of such building or  
20 structure, or the making, constructing, or  
21 improving of the road, street, sidewalk, sewer,



1 or water system, or other improvements. The  
2 measure of tax in respect of the improvements  
3 shall not exceed the amount which would have been  
4 taxable had the work been performed by another,  
5 subject as in other cases to the deductions  
6 allowed by subparagraph (B). Upon the election  
7 of the taxpayer, this paragraph may be applied  
8 notwithstanding that the improvements were not  
9 made by the taxpayer, or were not made as a  
10 business or as a part of a business, or were made  
11 with the intention of holding the same. However,  
12 this paragraph shall not apply in respect of any  
13 proceeds that constitute or are in the nature of  
14 rent, which shall be taxable under paragraph (9);  
15 provided that insofar as the business of renting  
16 or leasing real property under a lease is taxed  
17 under section 237-16.5, the tax shall be levied  
18 by section 237-16.5.

19 (4) Tax upon theaters, amusements, radio broadcasting  
20 stations, etc.



1           (A) Upon every person engaging or continuing within  
2           the State in the business of operating a theater,  
3           opera house, moving picture show, vaudeville,  
4           amusement park, dance hall, skating rink, radio  
5           broadcasting station, or any other place at which  
6           amusements are offered to the public, the tax  
7           shall be equal to four per cent of the gross  
8           income of the business, and in the case of a sale  
9           of an amusement at wholesale under section  
10          237-4(a)(13), the tax shall be one-half of one  
11          per cent of the gross income.

12          (B) The department may require that the person  
13          rendering an amusement at wholesale take from the  
14          licensed seller a certificate, in a form  
15          prescribed by the department, certifying that the  
16          sale is a sale at wholesale; provided that:

17          (i) Any licensed seller who furnishes a  
18          certificate shall be obligated to pay to the  
19          person rendering the amusement, upon demand,  
20          the amount of additional tax that is imposed



1                   upon the seller whenever the sale is not at  
2                   wholesale; and

3                   (ii) The absence of a certificate in itself shall  
4                   give rise to the presumption that the sale  
5                   is not at wholesale unless the person  
6                   rendering the sale is exclusively rendering  
7                   the amusement at wholesale.

8           (5) Tax upon sales representatives, etc. Upon every  
9           person classified as a representative or purchasing  
10          agent under section 237-1, engaging or continuing  
11          within the State in the business of performing  
12          services for another, other than as an employee, there  
13          is likewise hereby levied and shall be assessed and  
14          collected a tax equal to four per cent of the  
15          commissions and other compensation attributable to the  
16          services so rendered by the person.

17          (6) Tax on service business.

18               (A) Upon every person engaging or continuing within  
19               the State in any service business or calling  
20               including professional services not otherwise  
21               specifically taxed under this chapter, there is



1           likewise hereby levied and shall be assessed and  
2           collected a tax equal to four per cent of the  
3           gross income of the business, and in the case of  
4           a wholesaler under section 237-4(a)(10), the tax  
5           shall be equal to one-half of one per cent of the  
6           gross income of the business.

7           (B) The department may require that the person  
8           rendering a service at wholesale take from the  
9           licensed seller a certificate, in a form  
10          prescribed by the department, certifying that the  
11          sale is a sale at wholesale; provided that:

12          (i) Any licensed seller who furnishes a  
13                certificate shall be obligated to pay to the  
14                person rendering the service, upon demand,  
15                the amount of additional tax that is imposed  
16                upon the seller whenever the sale is not at  
17                wholesale; and

18          (ii) The absence of a certificate in itself shall  
19                give rise to the presumption that the sale  
20                is not at wholesale unless the person



1                   rendering the sale is exclusively rendering  
2                   services at wholesale.

3           (C) Where any person is engaged in the business of  
4           selling interstate or foreign common carrier  
5           telecommunication services within and without the  
6           State, other than as a home service provider, the  
7           tax shall be imposed on that portion of gross  
8           income received by a person from service which is  
9           originated or terminated in this State and is  
10          charged to a telephone number, customer, or  
11          account in this State notwithstanding any other  
12          state law (except for the exemption under section  
13          237-23(a)(1)) to the contrary. If, under the  
14          Constitution and laws of the United States, the  
15          entire gross income as determined under this  
16          paragraph of a business selling interstate or  
17          foreign common carrier telecommunication services  
18          cannot be included in the measure of the tax, the  
19          gross income shall be apportioned as provided in  
20          section 237-21; provided that the apportionment



1 factor and formula shall be the same for all  
2 persons providing those services in the State.

3 (D) Where any person is engaged in the business of a  
4 home service provider, the tax shall be imposed  
5 on the gross income received or derived from  
6 providing interstate or foreign mobile  
7 telecommunications services to a customer with a  
8 place of primary use in this State when the  
9 services originate in one state and terminate in  
10 another state, territory, or foreign country;  
11 provided that all charges for mobile  
12 telecommunications services which are billed by  
13 or for the home service provider are deemed to be  
14 provided by the home service provider at the  
15 customer's place of primary use, regardless of  
16 where the mobile telecommunications originate,  
17 terminate, or pass through; provided further that  
18 the income from charges specifically derived from  
19 interstate or foreign mobile telecommunications  
20 services, as determined by books and records that  
21 are kept in the regular course of business by the



1 home service provider in accordance with section  
2 239-24, shall be apportioned under any  
3 apportionment factor or formula adopted under  
4 subparagraph (C). Gross income shall not  
5 include:

6 (i) Gross receipts from mobile  
7 telecommunications services provided to a  
8 customer with a place of primary use outside  
9 this State;

10 (ii) Gross receipts from mobile  
11 telecommunications services that are subject  
12 to the tax imposed by chapter 239;

13 (iii) Gross receipts from mobile  
14 telecommunications services taxed under  
15 section 237-13.8; and

16 (iv) Gross receipts of a home service provider  
17 acting as a serving carrier providing mobile  
18 telecommunications services to another home  
19 service provider's customer.

20 For the purposes of this paragraph, "charges for  
21 mobile telecommunications services", "customer",



1 "home service provider", "mobile  
2 telecommunications services", "place of primary  
3 use", and "serving carrier" have the same meaning  
4 as in section 239-22.

5 (7) Tax on insurance producers. Upon every person engaged  
6 as a licensed producer pursuant to chapter 431, there  
7 is hereby levied and shall be assessed and collected a  
8 tax equal to 0.15 per cent of the commissions due to  
9 that activity.

10 (8) Tax on receipts of sugar benefit payments. Upon the  
11 amounts received from the United States government by  
12 any producer of sugar (or the producer's legal  
13 representative or heirs), as defined under and by  
14 virtue of the Sugar Act of 1948, as amended, or other  
15 Acts of the Congress of the United States relating  
16 thereto, there is hereby levied a tax of one-half of  
17 one per cent of the gross amount received; provided  
18 that the tax levied hereunder on any amount so  
19 received and actually disbursed to another by a  
20 producer in the form of a benefit payment shall be  
21 paid by the person or persons to whom the amount is



1 actually disbursed, and the producer actually making a  
 2 benefit payment to another shall be entitled to claim  
 3 on the producer's return a deduction from the gross  
 4 amount taxable hereunder in the sum of the amount so  
 5 disbursed. The amounts taxed under this paragraph  
 6 shall not be taxable under any other paragraph,  
 7 subsection, or section of this chapter.

8 (9) Tax on casino gaming. Upon every person engaging or  
 9 continuing within the State in the business of casino  
 10 gaming, as authorized under chapter \_\_\_\_\_, the tax  
 11 shall be equal to \_\_\_\_\_ per cent of the gross  
 12 income of the business.

13 [~~9~~] (10) Tax on other business. Upon every person  
 14 engaging or continuing within the State in any  
 15 business, trade, activity, occupation, or calling not  
 16 included in the preceding paragraphs or any other  
 17 provisions of this chapter, there is likewise hereby  
 18 levied and shall be assessed and collected, a tax  
 19 equal to four per cent of the gross income thereof.  
 20 In addition, the rate prescribed by this paragraph  
 21 shall apply to a business taxable under one or more of



1           the preceding paragraphs or other provisions of this  
2           chapter, as to any gross income thereof not taxed  
3           thereunder as gross income or gross proceeds of sales  
4           or by taxing an equivalent value of products, unless  
5           specifically exempted."

6           SECTION 6. Section 237-31, Hawaii Revised Statutes, is  
7 amended to read as follows:

8           "§237-31 Remittances. All remittances of taxes imposed by  
9 this chapter shall be made by money, bank draft, check,  
10 cashier's check, money order, or certificate of deposit to the  
11 office of the department of taxation to which the return was  
12 transmitted. The department shall issue its receipts therefor  
13 to the taxpayer and shall pay the moneys into the state treasury  
14 as a state realization, to be kept and accounted for as provided  
15 by law; provided that:

- 16           (1) A sum, not to exceed \$5,000,000, from all general  
17           excise tax revenues realized by the State shall be  
18           deposited in the state treasury in each fiscal year to  
19           the credit of the compound interest bond reserve fund;
- 20           (2) A sum from all general excise tax revenues realized by  
21           the State that is equal to one-half of the total



1 amount of funds appropriated or transferred out of the  
 2 hurricane reserve trust fund under sections 4 and 5 of  
 3 Act 62, Session Laws of Hawaii 2011, shall be  
 4 deposited into the hurricane reserve trust fund in  
 5 fiscal year 2013-2014 and in fiscal year 2014-2015;  
 6 provided that the deposit required in each fiscal year  
 7 shall be made by October 1 of that fiscal year; ~~and]~~

8 ~~[+]~~ (3) ~~[+]~~ Commencing with fiscal year 2018-2019, a sum from all  
 9 general excise tax revenues realized by the State that  
 10 represents the difference between the state public  
 11 employer's annual required contribution for the  
 12 separate trust fund established under section 87A-42  
 13 and the amount of the state public employer's  
 14 contributions into that trust fund shall be deposited  
 15 to the credit of the State's annual required  
 16 contribution into that trust fund in each fiscal year,  
 17 as provided in section 87A-42 ~~[+]~~; and

18 (4) Two per cent of all general excise tax revenues  
 19 realized by the State pursuant to section 237-13(9)  
 20 shall be deposited into the state gaming fund,  
 21 established under section -19."



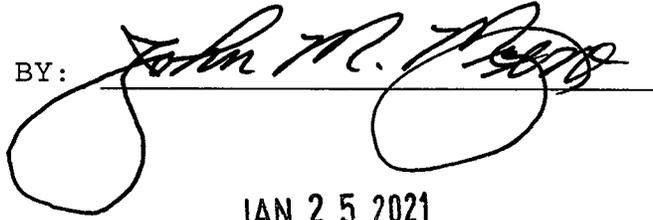
# H.B. NO. 772

1           SECTION 7. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 8. This Act shall take effect upon its approval.

4

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "John M. Pappas", is written over a horizontal line. The signature is stylized and cursive.

JAN 25 2021



# H.B. NO. 772

**Report Title:**

Casino Gaming; Waikiki

**Description:**

Grants 10-year license for 1 stand-alone, members-only casino in Waikiki, not in a hotel. Allows guests 21 years of age or older who register to stay 1 day and night at a hotel on Oahu for each day of admission at \$20-per-day pass. Establishes the Hawaii gaming control commission. Imposes wagering tax on gross receipts. Creates the state gaming fund and compulsive gambler program.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

