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## A BILL FOR AN ACT

RELATING TO GAMING.

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

1           SECTION 1. The legislature finds that the visitor industry  
2 continues to be the state's largest sector despite numerous and  
3 continuing attempts to diversify Hawaii's economy. Although  
4 Hawaii has recently enjoyed several years of strong growth in  
5 tourism to the islands, global competition in the visitor  
6 industry remains extremely strong. Hawaii has its own  
7 competitive advantage because it possesses several unique  
8 attributes that persuade visitors to make the state their  
9 destination of choice. However, gaming, particularly casino  
10 gaming, has proliferated throughout not only the United States  
11 but also the entire world and has become almost a standard  
12 attraction in many resort and visitor destinations. Not to  
13 offer casino gaming in Hawaii handicaps the state and diminishes  
14 our competitive advantage as a visitor destination.

15           At the same time, the State and the city and county of  
16 Honolulu have just embarked on the largest and costliest  
17 construction project in the state's history with the approval of  
18 construction of a fixed guideway transportation system on Oahu.



1 To this end, the State has authorized and imposed a general  
2 excise tax surcharge of one-half per cent on Oahu, and residents  
3 and businesses on Oahu have already begun paying this surcharge  
4 as of January 1, 2007. Although federal funding is potentially  
5 involved, much of the cost needs to be paid for locally.  
6 History and experience have also demonstrated that, in the harsh  
7 light of reality, cost estimates almost inevitably turn out to  
8 be understated when numerous factors are taken into account such  
9 as inflation, unanticipated contingencies, cost overruns, delays  
10 caused by weather or other factors, and other often-cited  
11 causes. Any additional costs must be borne by taxpayers.

12 Consequently, the State should pursue various economic  
13 opportunities to ensure solid financing for the fixed guideway,  
14 and these opportunities should include limited casino gaming in  
15 Hawaii. In addition, thousands of permanent jobs will be  
16 created for work directly connected with casino facilities  
17 themselves, and thousands more jobs will be generated during the  
18 construction of casino facilities.

19 It is critical to the hotel and visitor industry that  
20 casino facilities not include any hotels. The casino facilities  
21 will bring millions of new tourists who will be able to stay in  
22 existing hotels and use existing services.





- 1           (1) Controls, is controlled by, or is under common  
2                   control;
- 3           (2) Is in a partnership or joint venture relationship; or
- 4           (3) Is a co-shareholder of a corporation, a co-member of a  
5                   limited liability company, or a co-partner in a  
6                   limited liability partnership,  
7 with a person who holds or applies for a casino license under  
8 this chapter.

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

14           "Applicant" means any person who applies for a license or  
15 for registration under this chapter.

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

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



1 games licensed under this chapter, including baccarat, twenty-  
2 one, poker, craps, slot machine, video gaming of chance,  
3 roulette wheel, Klondike table, punch-board, faro layout,  
4 numbers ticket, push car, jar ticket, pull tab, or other game of  
5 chance that is authorized by the commission as a wagering  
6 device.

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

10 "Chairperson" means the chairperson of the Hawaii gaming  
11 control commission.

12 "Commission" means the Hawaii gaming control commission  
13 established in section -3.

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

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

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



1 employee, or agent of the commission shall be considered to have  
2 a financial interest in a matter under consideration if:

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

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

10 "Gross receipts" means:

11 (1) The total of:

12 (A) Cash received as winnings;

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

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

17 and

18 (2) Does not include:

19 (A) Counterfeit money or tokens;

20 (B) Coins of other countries that are received in  
21 gaming devices;



1 (C) Cash taken in fraudulent acts perpetrated against  
2 a licensee for which the licensee is not  
3 reimbursed; and

4 (D) Cash received as entry fees for contests or  
5 tournaments in which patrons compete for prizes.

6 "Individual" means a natural person.

7 "Institutional investor" means:

8 (1) Any retirement fund administered by a public agency  
9 for the exclusive benefit of federal, state, or county  
10 public employees;

11 (2) An employee benefit plan, or pension fund that is  
12 subject to the Employee Retirement Income Security Act  
13 of 1974, as amended;

14 (3) An investment company registered under the Investment  
15 Company Act of 1940 (Title I of Chapter 686, 54 Stat.  
16 789, 15 United States Code 80a-1 to 80a-3 and 80a-4 to  
17 80a-64);

18 (4) A collective investment trust organized by a bank  
19 under part 9 of the rules of the Comptroller of the  
20 Currency;

21 (5) A closed end investment trust;



- 1           (6) A chartered or licensed life insurance company or
- 2                   property and casualty insurance company;
- 3           (7) A chartered or licensed financial institution;
- 4           (8) An investment advisor registered under the Investment
- 5                   Advisers Act of 1940 (Title 11 of Chapter 686,54 Stat.
- 6                   847, 15 United States Code 80b-1 to 80b-21); or
- 7           (9) Any other person as the commission may determine for
- 8                   reasons consistent with this chapter.

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

16           "Occupational license" means a license issued by the  
17 commission to a person or entity to perform an occupation  
18 relating to casino gaming in the state that the commission has  
19 identified as an occupation that requires a license.

20           "Outside employment" includes the following:

- 21           (1) Operation of a proprietorship;





1           (2) Participation in a partnership or group business  
2           enterprise; or

3           (3) Performance as a director or corporate officer of any  
4           for-profit corporation, or banking or credit  
5           institution.

6           "Person" means an individual, association, partnership,  
7           estate, trust, corporation, limited liability company, or other  
8           legal entity.

9           "Political activity" or "politically-related activity"  
10          includes:

11          (1) Using the person's official authority or influence to  
12          interfere with or affect the result of an election;

13          (2) Knowingly soliciting, accepting, or receiving  
14          political contributions from any person;

15          (3) Running for nomination or as a candidate for election  
16          to a partisan political office; or

17          (4) Knowingly soliciting or discouraging the participation  
18          in any political activity of any person who is:

19                (A) Applying for any compensation, grant, contract,  
20                ruling, license, permit, or certificate pending  
21                before the commission; or



1           (B) The subject of or a participant in an ongoing  
2           audit, investigation, or enforcement action being  
3           carried out by the commission.

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

15          "Supplier" means a person that the commission has  
16          identified under rules adopted by the commission as requiring a  
17          license to provide casino licensees with goods or services  
18          regarding the realty, construction, maintenance, or business of  
19          a proposed or existing casino facility on a regular or  
20          continuing basis, including junket enterprises, security  
21          businesses, manufacturers, distributors, persons who service



1 gaming devices or equipment, garbage haulers, maintenance  
2 companies, food purveyors, and construction companies.

3 "Supplier's license" means a license to furnish any  
4 equipment, devices, supplies, or services to a licensed casino  
5 gaming operation permitted under this chapter.

6 **§ -3 Hawaii gaming control commission.** (a) There is  
7 established the Hawaii gaming control commission which shall be  
8 a body corporate and a public instrumentality of the State for  
9 the purpose of implementing this chapter. The commission shall  
10 be placed within the department for administrative purposes.  
11 The commission shall consist of seven members to be appointed by  
12 the governor with the advice and consent of the senate under  
13 section 26-34. Of the seven members, two shall be appointed  
14 from a list of nominees submitted by the president of the  
15 senate, and two shall be appointed from a list of nominees  
16 submitted by the speaker of the house of representatives. All  
17 appointments to the commission shall be made within sixty days  
18 of the effective date of this Act. The members shall elect one  
19 individual from among themselves to serve as chairperson of the  
20 commission.



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

4 (1) Is an elected state official;

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

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

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



1 (c) The term of office of a commission member shall be  
2 four years. Vacancies in the commission shall be filled for the  
3 unexpired term in like manner as the original appointments.

4 (d) The governor may remove or suspend for cause any  
5 member of the commission after due notice and public hearing.  
6 The president of the senate or the speaker of the house of  
7 representatives may request that the governor remove or suspend  
8 a member of the commission that was nominated by either the  
9 president of the senate or the speaker of the house of  
10 representatives, respectively. Upon receipt of a request from  
11 either the president of the senate or the speaker of the house  
12 of representatives, as applicable, the governor shall remove or  
13 suspend the member or members of the commission in question.

14 (e) Each member shall:

15 (1) Be a resident of the State of Hawaii;

16 (2) Serve part-time;

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

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

21 (f) Officers of the commission, including the chairperson,  
22 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's 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 subject to the commission's  
18 supervision. The executive director shall:

- 19 (1) Hold office at the will of the commission;
- 20 (2) Be exempt from chapters 76 and 89;
- 21 (3) Devote full time to the duties of the office;
- 22 (4) Not hold any other office or employment;



- 1       (5) Perform any and all duties that the commission
- 2             assigns;
- 3       (6) Keep records of all proceedings of the commission and
- 4             preserve all records, books, documents, and other
- 5             papers belonging to the commission or entrusted to its
- 6             care; and
- 7       (7) Receive an annual salary at an amount set by the
- 8             commission, and shall be reimbursed for expenses
- 9             actually and necessarily incurred in the performance
- 10            of the executive director's duties.

11       (i) Except as otherwise provided by law, the executive  
12 director may:

13       (1) Hire assistants, other officers, and employees, who  
14             shall be exempt from chapters 76 and 89 and who shall  
15             serve at the will of the executive director; and

16       (2) Appoint committees and consultants necessary for the  
17             efficient operation of casino gaming; provided that no  
18             person shall be hired or appointed under this  
19             subsection who:

20             (A) Is an elected state official;

21             (B) Is licensed by the commission pursuant to this  
22             chapter or is an official of, has a financial



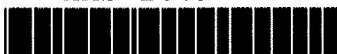
1 interest in, or has a financial relationship  
2 with, any gaming operation subject to the  
3 jurisdiction of this commission pursuant to this  
4 chapter;

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

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

18 (j) The salaries of employees shall be set by the  
19 executive director.

20 (k) The commission shall adopt rules in accordance with  
21 chapter 91 establishing a code of ethics for its employees that  
22 shall include restrictions on which employees are prohibited





1 from participating in or wagering on any game or gaming  
2 operation subject to the jurisdiction of the commission. The  
3 code of ethics shall be separate from and in addition to any  
4 standards of conduct set forth in or pursuant to chapter 84.

5 (1) A person shall not be appointed to or employed by the  
6 commission if any of the following circumstances exist:

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

10 (A) A casino licensee under this chapter or in  
11 another jurisdiction; or

12 (B) A potential casino licensee who had an  
13 application to operate a casino pending before  
14 the commission or any other jurisdiction; except  
15 that the person seeking employment may be  
16 employed by the commission if the person's  
17 interest in any casino licensee would not, in the  
18 opinion of the commission, interfere with the  
19 objective discharge of the person's employment  
20 obligations. A person shall not be employed by  
21 the commission if the person's interest in the



1 casino licensee constitutes a controlling  
2 interest in that casino licensee;

3 or

4 (2) The person or the person's spouse, parent, child,  
5 child's spouse, or sibling, is a member of the  
6 commission, or a director of, or a person financially  
7 interested in, any person licensed as a casino  
8 licensee or casino supplier, or any person who has an  
9 application for a license pending before the  
10 commission.

11 (m) Each member of the commission, the executive director,  
12 and each key employee as determined by the commission shall file  
13 with the governor, a financial disclosure statement:

14 (1) Listing all assets, liabilities, and property and  
15 business interests of the member, executive director,  
16 key employee, and any of their spouses; and

17 (2) Affirming that the member, executive director, and key  
18 employee are in compliance with this chapter.

19 The financial disclosure statement shall be made under oath and  
20 filed at the time of employment and annually thereafter.

21 (n) Each employee of the commission shall file with the  
22 commission a financial disclosure statement listing all assets,



1 liabilities, property and business interests, and sources of  
2 income of the employee and the employee's spouse. This  
3 subsection does not apply to the executive director or a key  
4 employee, as determined by the commission.

5 (o) No person who is a member of the commission, the  
6 executive director, or a key employee shall hold direct or  
7 indirect interest in, be employed by, or enter into a contract  
8 for service with, any applicant or person licensed by or  
9 registered with the commission for a period of four years after  
10 the date the person's membership on or employment with the  
11 commission terminates.

12 (p) No employee of the commission shall acquire any direct  
13 or indirect interest in, be employed by, or enter into a  
14 contract for services with any applicant or person licensed by  
15 or registered with the commission for a period of two years  
16 after the date the employee's employment with the commission is  
17 terminated.

18 (q) No commission member or person employed by the  
19 commission shall represent a person or party other than the  
20 State before or against the commission for a period of two years  
21 after the termination of the member's term of office or the  
22 employee's period of employment with the commission.



1 (r) No business entity in which a former commission member  
2 or employee or agent has an interest, or any partner, officer,  
3 or employee of the business entity, shall make any appearance or  
4 representation before the commission that is prohibited to that  
5 former member, employee, or agent. As used in this subsection,  
6 "business entity" means a corporation, limited liability  
7 company, partnership, limited liability partnership association,  
8 trust, or other form of legal entity.

9 **§ -4 Staff.** (a) The executive director shall keep  
10 records of all proceedings of the commission and shall preserve  
11 all records, books, documents, and other papers belonging to the  
12 commission or entrusted to its care relating to casino gaming.

13 (b) The commission may employ any personnel necessary to  
14 carry out its duties related to casino gaming.

15 **§ -5 Powers of the commission.** The commission shall  
16 have all powers necessary to fully and effectively supervise all  
17 casino gaming operations, including the power to:

18 (1) Administer, regulate, and enforce the system of casino  
19 gaming established by this chapter. The commission's  
20 jurisdiction shall extend to every person,  
21 association, corporation, partnership, trust, and any  
22 other entity with a financial interest in or holding a



- 1 license under this chapter, or required under this  
2 chapter to hold a license in casino gaming operations  
3 in a county with a population over five hundred  
4 thousand;
- 5 (2) Issue a license to operate one or more casino  
6 facilities pursuant to this chapter;
- 7 (3) Determine the types and numbers of occupational and  
8 supplier's licenses to be permitted under this  
9 chapter;
- 10 (4) Adopt standards for the licensing of all persons under  
11 this chapter, subject to the qualifications and  
12 standards set forth herein to issue licenses and to  
13 establish and collect fees for these licenses;
- 14 (5) Provide for the collection of all taxes imposed  
15 pursuant to this chapter, and to collect, receive,  
16 expend, and account for all revenues derived from  
17 casino gaming in a county with a population over five  
18 hundred thousand;
- 19 (6) Enter at any time without a warrant and without notice  
20 to the licensees, the premises, offices, casinos,  
21 facilities, or other places of business of a casino  
22 licensee, or casino supplier licensee, where evidence



1 of the compliance or noncompliance with this chapter  
2 or rules is likely to be found. Entry is authorized  
3 to:

4 (A) Inspect and examine all premises wherein casino  
5 gaming or the business of gaming or the business  
6 of a supplier is conducted, or where any records  
7 of the activities are prepared;

8 (B) Inspect, examine, audit, impound, seize, or  
9 assume physical control of, or summarily remove  
10 from the premises all books, ledgers, documents,  
11 writings, photocopies of correspondence records,  
12 videotapes, including electronically stored  
13 records, money receptacles, other containers and  
14 their contents, equipment in which the records  
15 are stored, or other gaming-related equipment and  
16 supplies on or around the premises, including  
17 counting rooms;

18 (C) Inspect the person, and inspect, examine, and  
19 seize personal effects present in a casino  
20 facility licensed under this chapter, of any  
21 holder of a licensed casino facility; and



- 1 (D) Investigate and deter alleged violations of this  
2 chapter or rules;
- 3 (7) Investigate alleged violations of this chapter and to  
4 take appropriate disciplinary action against a  
5 licensee or a holder of an occupational license for a  
6 violation, institute appropriate legal action for  
7 enforcement, or both;
- 8 (8) Be present, through its inspectors and agents, any  
9 time casino gaming operations are conducted in any  
10 casino to certify the revenue thereof, receive  
11 complaints from the public, and conduct other  
12 investigations into the conduct of the casino gaming  
13 and the maintenance of the equipment as from time to  
14 time the commission may deem necessary and proper;
- 15 (9) Adopt appropriate standards for all casino facilities  
16 as well as for electronic or mechanical gaming  
17 devices;
- 18 (10) Require that records including financial or other  
19 statements of any licensee under this chapter be kept  
20 in the manner prescribed by the commission and that  
21 any licensee involved in the ownership or management  
22 of casino gaming operations submit to the commission:



# H.B. NO. 1517

- 1           (A) An annual balance sheet and profit and loss
- 2                       statement;
- 3           (B) A list of the stockholders or other persons
- 4                       having a five per cent or greater beneficial
- 5                       interest in the gaming activities of each
- 6                       licensee; and
- 7           (C) Any other information the commission deems
- 8                       necessary to effectively administer this chapter;
- 9       (11) Conduct hearings, issue subpoenas for the attendance
- 10           of witnesses and subpoenas duces tecum for the
- 11           production of books, records, and other pertinent
- 12           documents, and to administer oaths and affirmations to
- 13           the witnesses, when, in the judgment of the
- 14           commission, it is necessary to administer or enforce
- 15           this chapter. The executive director or the executive
- 16           director's designee is also authorized to issue
- 17           subpoenas and to administer oaths and affirmations to
- 18           witnesses;
- 19       (12) Prescribe any employment application form to be used
- 20           by any licensee involved in the ownership or
- 21           management of casino gaming operations for hiring
- 22           purposes;





- 1           (13) Eject or exclude, or authorize the ejection or  
2                   exclusion of, any person from casino facilities where  
3                   the person is in violation of this chapter or where  
4                   the person's conduct or reputation is such that the  
5                   person's presence within a casino facility, in the  
6                   opinion of the commission, may call into question the  
7                   honesty and integrity of the casino gaming operation  
8                   or interfere with the orderly conduct thereof or any  
9                   other action that, in the opinion of the commission,  
10                  is a detriment or impediment to the casino gaming  
11                  operations; provided that the propriety of that  
12                  ejection or exclusion shall be subject to subsequent  
13                  hearing by the commission;
- 14          (14) Permit licensees of casino gaming operations to use a  
15                  wagering system whereby wagerers' money may be  
16                  converted to tokens, electronic cards, or chips, which  
17                  shall be used only for wagering within the casino  
18                  facility;
- 19          (15) Suspend, revoke, or restrict licenses, to require the  
20                  removal of a licensee or an employee of a licensee for  
21                  a violation of this chapter or a commission rule, or  
22                  for engaging in a fraudulent practice;



- 1       (16) Impose and collect fines of up to \$5,000 against  
2            individuals and up to \$10,000 or an amount equal to  
3            the daily gross receipts, whichever is larger, against  
4            licensees for each violation of this chapter, any  
5            rules adopted by the commission, or for any other  
6            action which, in the commission's discretion, is a  
7            detriment or impediment to casino gaming operations;
- 8       (17) Hire employees to gather information, conduct  
9            investigations, and carry out other tasks described in  
10           this chapter;
- 11       (18) Establish minimum levels of insurance to be maintained  
12            by licensees;
- 13       (19) Delegate the execution of any of its powers for the  
14            purpose of administering and enforcing this chapter;  
15            and
- 16       (20) Adopt rules pursuant to chapter 91 to implement this  
17            chapter. Rules may include rules that:
  - 18            (A) Govern, restrict, approve, or regulate the casino  
19                gaming authorized in this chapter;
  - 20            (B) Promote the safety, security, and integrity of  
21                casino gaming authorized in this chapter;



1 (C) License and regulate, consistent with the  
2 qualifications and standards set forth in this  
3 chapter, persons participating in or involved  
4 with casino gaming authorized in this chapter;  
5 and

6 (D) Take any other action which may be reasonable or  
7 appropriate to enforce this chapter and rules  
8 adopted under this chapter.

9 This section is not intended to limit warrantless inspections,  
10 except in accordance with constitutional requirements.

11 **§ -6 Member, employee, or agent of commission; conduct**  
12 **generally.** (a) By January 31 of each year, each member of the  
13 commission shall prepare and file with the commission a  
14 disclosure form in which the member:

15 (1) Affirms that the member or the member's spouse,  
16 parent, child, or child's spouse is not a member of  
17 the board of directors of, financially interested in,  
18 or employed by, a licensee or applicant;

19 (2) Affirms that the member continues to meet all other  
20 criteria for commission membership under this chapter  
21 or the rules adopted by the commission;



1           (3) Discloses any legal or beneficial interest in any real  
2           property that is or may be directly or indirectly  
3           involved with gaming operations authorized by this  
4           chapter; and

5           (4) Discloses any other information that may be required  
6           to ensure that the integrity of the commission and its  
7           work is maintained.

8           (b) By January 31 of each year, each employee of the  
9           commission shall prepare and file with the commission a  
10          disclosure form in which the employee:

11          (1) Affirms the absence of financial interests prohibited  
12          by this chapter;

13          (2) Discloses any legal or beneficial interests in any  
14          real property that is or that may be directly or  
15          indirectly involved with gaming or gaming operations  
16          authorized by this chapter;

17          (3) Discloses whether the employee or the employee's  
18          spouse, parent, child, or child's spouse has a  
19          financial interest in or is employed by a supplier  
20          licensee, or an applicant for a supplier's license,  
21          under this chapter; and



1           (4) Discloses any other information that may be required  
2                   to ensure that the integrity of the commission and its  
3                   work is maintained.

4           (c) A member, employee, or agent of the commission who  
5 becomes aware that the member, employee, or agent of the  
6 commission or their spouse, parent, or child is a member of the  
7 board of directors of, has a financial interest in, or is  
8 employed by a licensee or an applicant shall immediately provide  
9 detailed written notice to the chairperson.

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

13           (1) A misdemeanor involving gambling, dishonesty, theft,  
14                   or fraud;

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

18           (3) A felony under Hawaii law, the laws of any other  
19                   state, or the laws of the United States, or any other  
20                   jurisdiction,

21 shall immediately provide detailed written notice of the  
22 conviction or charge to the chairperson.



1           (e) Any member, employee, or agent of the commission who  
2 is negotiating for, or acquires by any means, any interest in  
3 any person that is a licensee or an applicant, or is affiliated  
4 with such a person, shall immediately provide written notice of  
5 the details of the interest to the chairperson. The member,  
6 employee, or agent of the commission shall not act on behalf of  
7 the commission with respect to that person.

8           (f) No member, employee, or agent of the commission shall  
9 enter into any negotiations for employment with any person or  
10 affiliate of any person who is a licensee or an affiliate and  
11 shall immediately provide written notice of the details of any  
12 such negotiations or discussions to the chairperson. The  
13 member, employee, or agent of the commission shall not take any  
14 action on behalf of the commission with respect to that person.

15           (g) Any member, employee, or agent of the commission who  
16 receives an invitation, written or oral, to initiate a  
17 discussion concerning employment or the possibility of  
18 employment with a person, or affiliate of a person that is a  
19 licensee or an applicant shall immediately report the invitation  
20 to the chairperson. The member, employee, or agent of the  
21 commission shall not take action on behalf of the commission  
22 with respect to that person.



1 (h) A licensee or applicant shall not knowingly initiate a  
2 negotiation for, or discussion of, employment with a member,  
3 employee, or agent of the commission. A licensee or applicant  
4 who initiates a negotiation or discussion about employment shall  
5 immediately provide written notice of the details of the  
6 negotiation or discussion to the chairperson as soon as that  
7 person becomes aware that the negotiation or discussion has been  
8 initiated with a member, employee, or agent of the commission.

9 (i) No member, employee, or agent of the commission, or  
10 former member, employee, or agent of the commission, shall  
11 disseminate or otherwise disclose any material or information in  
12 the possession of the commission that the commission considers  
13 confidential, unless specifically authorized to do so by the  
14 chairperson or the commission.

15 (j) No member, employee, or agent of the commission or a  
16 parent, spouse, sibling, or child of a member, employee, or  
17 agent of the commission shall accept any gift, gratuity,  
18 compensation, travel, lodging, or anything of value, directly or  
19 indirectly from any licensee, applicant, or any affiliate or  
20 representative of an applicant or licensee, unless the  
21 acceptance conforms to a written policy or directive issued by  
22 the chairperson or the commission. Any member, employee, or



1 agent of the commission who is offered or receives any gift,  
2 gratuity, compensation, travel, lodging, or anything of value,  
3 directly or indirectly, from any licensee or any applicant or  
4 affiliate or representative of an applicant or licensee shall  
5 immediately provide written notification of the details to the  
6 chairperson.

7 (k) No licensee or applicant, or affiliate or  
8 representative of an applicant or licensee, shall, directly or  
9 indirectly, knowingly give or offer to give any gift, gratuity,  
10 compensation, travel, lodging, or anything of value to any  
11 member, employee, or agent of the commission which the member,  
12 employee, or agent of the commission is prohibited from  
13 accepting under subsection (j).

14 (l) No member, employee, or agent of the commission shall  
15 engage in any conduct that constitutes a conflict of interest,  
16 and shall immediately advise the chairperson in writing of the  
17 details of any incident or circumstances that would present the  
18 existence of a conflict of interest with respect to the  
19 performance of the commission-related work or duty of the  
20 member, employee, or agent of the commission.

21 (m) A member, employee, or agent of the commission who is  
22 approached and offered a bribe in violation of this chapter





1 shall immediately provide a written account of the details of  
2 the incident to the chairperson and to a law enforcement officer  
3 of a law enforcement agency having jurisdiction.

4 (n) A member, employee, or agent of the commission shall  
5 disclose their involvement with any casino interest in the past  
6 five years and shall not engage in political activity or  
7 politically-related activity during the duration of their  
8 appointment or employment.

9 (o) Any former member, employee, or agent of the  
10 commission may appear before the commission as a fact witness  
11 about matters or actions handled by the member, employee, or  
12 agent during the person's tenure as a member, employee, or agent  
13 of the commission. The member, employee, or agent of the  
14 commission shall not receive compensation for such an appearance  
15 other than a standard witness fee and reimbursement for travel  
16 expenses as established by statute or court rule.

17 (p) No licensee or applicant or any affiliate or  
18 representative of an applicant or licensee shall engage in ex  
19 parte communications concerning a pending application, license,  
20 or enforcement action with members of the commission. A member  
21 of the commission shall not engage in any ex parte  
22 communications with a licensee or an applicant, or with any



1 affiliate or representative of an applicant or licensee,  
2 concerning a pending application, license, or enforcement  
3 action.

4 (q) Any commission member, licensee, or applicant or  
5 affiliate or representative of a commission member, licensee, or  
6 applicant who receives any ex parte communication in violation  
7 of subsection (p), or who is aware of an attempted communication  
8 in violation of subsection (p), shall immediately report the  
9 details of the communication or attempted communication in  
10 writing to the chairperson.

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



1           (s) A new or current employee or agent of the commission  
2 shall obtain written permission from the executive director  
3 before continuing outside employment held at the time the  
4 employee begins to work for the commission. Permission shall be  
5 denied, or permission previously granted shall be revoked, if  
6 the nature of the work is considered to, or does create, a  
7 possible conflict of interest or otherwise interferes with the  
8 duties of the employee or agent for the commission.

9           (t) An employee or agent of the commission granted  
10 permission for outside employment shall not conduct any business  
11 or perform any activities, including solicitation, related to  
12 outside employment on premises used by the commission or during  
13 the employee's working hours for the commission.

14           (u) Whenever the chairperson is required to file  
15 disclosure forms or report in writing the details of any  
16 incident or circumstance pursuant to this section, the  
17 chairperson shall file the forms or reports with the commission.

18           (v) The chairperson shall report any action the  
19 chairperson has taken or contemplates taking under this section,  
20 with respect to an employee or agent or former employee or  
21 former agent, to the commission at the next meeting of the



1 commission. The commission may direct the executive director to  
2 take additional or different action.

3 (w) No member, employee, or agent of the commission may  
4 participate in or wager on any gambling game conducted by any  
5 licensee or applicant, or any affiliate of an applicant or  
6 licensee in the state or in any other jurisdiction, except as  
7 follows:

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

14 (2) A member, employee, or agent of the commission shall  
15 advise the chairperson at least twenty-four hours in  
16 advance if they plan to be present in a casino in this  
17 state, or in another jurisdiction, operated by a  
18 licensee, applicant, or affiliate of a licensee or  
19 applicant, outside the scope of their official duties  
20 for the commission.

21 (x) Violation of this section by a licensee, applicant, or  
22 affiliate or representative of a licensee or applicant, may



1 result in denial of the application of licensure or revocation  
2 or suspension of license or other disciplinary action by the  
3 commission.

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

8 (z) Except as otherwise provided in this subsection, a  
9 violation of this section by an employee or agent of the  
10 commission shall not result in termination of employment or  
11 require other disciplinary action if the commission determines  
12 that the conduct involved does not violate the purpose of this  
13 chapter. Employment shall be terminated if:

- 14 (1) The employee or agent is a spouse, parent, child, or  
15 spouse of a child of a commission member; or
- 16 (2) After being offered employment or having begun  
17 employment with the commission, the employee or agent  
18 intentionally acquires a financial interest in a  
19 licensee or an applicant, or affiliate or  
20 representative of a licensee or applicant.



1 (aa) If a financial interest in a licensee or an  
2 applicant, or affiliate or representative of a licensee or  
3 applicant, is acquired by:

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

6 (2) An employee of the commission; or

7 (3) The employee's or agent's spouse, parent, or child,  
8 through no intentional action of the employee or agent, the  
9 employee or agent shall have up to thirty days to divest or  
10 terminate the financial interest. Employment may be terminated  
11 if the interest has not been divested after thirty days.

12 (bb) Violation of this section shall not create a civil  
13 cause of action.

14 **§ -7 Authorization of limited gaming.** (a) Casino  
15 gaming shall only be permitted in casino facilities  
16 in a county with a population over five hundred thousand. Any  
17 application for a casino license to operate a casino facility in  
18 a county with a population over five hundred thousand shall  
19 include a casino facility development plan for the casino  
20 facility.

21 (b) The commission shall adopt the necessary rules and  
22 make applications available for a casino licensee to operate a



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

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

- 18 (1) The name, business address, telephone number, social  
19 security number and, where applicable, the federal tax  
20 identification number of the applicant and every  
21 qualifier;



- 1           (2) An identification of any business, including, if  
2           applicable, the state of incorporation or  
3           registration, in which the applicant or qualifier has  
4           an equity interest of more than five per cent. If the  
5           applicant or qualifier is a corporation, partnership,  
6           or other business entity, the applicant or qualifier  
7           shall identify any other corporation, partnership, or  
8           other business entity in which it has an equity  
9           interest of more than five per cent, including, if  
10          applicable, the state of incorporation or  
11          registration. The applicant or qualifier may comply  
12          with this paragraph by filing a copy of the  
13          applicant's or qualifier's registration with the  
14          securities exchange commission if the registration  
15          contains the information required by this paragraph;
- 16          (3) Whether the applicant or qualifier has been indicted,  
17          convicted, has pled guilty or nolo contendere, or  
18          forfeited bail for a felony within the last ten years  
19          or a misdemeanor involving gambling, theft, or fraud  
20          within the last ten years, not including traffic  
21          violations, and including the date, the name and  
22          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 authority, the  
12          date each action was taken, and the reason for each  
13          action;

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



- 1           (6) Whether the applicant or qualifier within the last  
2           five tax years has failed to pay any final amount of  
3           tax due and payable under federal, state, or local  
4           law, after exhaustion of all inter-agency appeals  
5           processes, including the amount, type of tax, the  
6           taxing, and time periods involved;
- 7           (7) A statement listing the names and titles of all public  
8           officials or officers of any unit of state government  
9           or local government in the jurisdiction in which the  
10          gaming facility is to be located, and the spouses,  
11          parents, and children of those public officials or  
12          officers who, directly or indirectly, own any  
13          financial interest in, have any beneficial interest  
14          in, are the creditors of or hold any debt instrument  
15          issued by, or hold or have an interest in any  
16          contractual or service relationship with, the  
17          applicant or a qualifier. As used in this paragraph,  
18          "public official" or "officer" does not include a  
19          person who would be listed solely because of the  
20          person's state or federal military service;
- 21          (8) The name and business telephone number of any  
22          attorney, counsel, or any other person representing an



1 applicant or a qualifier in matters before the  
2 commission; and

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

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

16 (c) Applicants shall submit with their application a plan  
17 for training residents of the state for jobs that are available  
18 at a casino facility. The plan shall take into consideration  
19 the need to provide training to low-income persons so as to  
20 allow such persons to qualify for jobs that will be created in  
21 the casino facilities.



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

10 (e) An application fee of \$50,000 shall be paid by an  
11 applicant at the time of filing to defray the costs associated  
12 with an applicant and qualifier's background investigation  
13 conducted by the commission. If the costs of the investigation  
14 exceed \$50,000, the applicant shall pay the additional amount to  
15 the commission. If the costs of the investigation are less than  
16 \$50,000, the applicant shall receive a refund of the remaining  
17 amount. All information, records, interviews, reports,  
18 statements, memoranda, or other data supplied to or used by the  
19 commission in the course of its review or investigation of an  
20 application for a license shall be confidential, used only for  
21 the purpose of evaluating an applicant, and exempt from public  
22 disclosure required by chapter 92F, and shall not be admissible



1 as evidence, nor discoverable in any action of any kind in any  
2 court or before any tribunal, commission, agency, or person,  
3 except for any action deemed necessary by the commission.

4 (f) An applicant shall be ineligible to receive an  
5 operator's license if:

6 (1) The applicant 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, 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 applying for a license employs  
17 a person described in paragraph (1), (2), (3), or (4)  
18 who participates in the management or operation of  
19 gaming operations authorized under this chapter;

20 (6) A license of the applicant issued under this chapter,  
21 or a license to own or operate gaming facilities in  
22 any other jurisdiction, has been revoked; or



1           (7) The applicant or qualifier owns any interest in,  
2           operates or manages, has a contractual relationship  
3           with, or is an affiliate of, a hotel, motel, or resort  
4           located within thirty miles of a casino facility site  
5           that may be developed under this chapter. The  
6           relationship between the applicant or any of its  
7           qualifiers and the hotel, motel, or resort shall be  
8           determined at the time of licensure, thus allowing any  
9           applicants or their qualifiers to divest themselves of  
10          such interests between the time of application and the  
11          time when the license is approved.

12          **§ -9 Criteria for award of a casino license.** (a) The  
13          commission shall issue a license to operate a casino facility to  
14          applicants who best meet all of the following criteria:

15           (1) Submission of a casino facility development plan for  
16           the casino facility that will increase tourism,  
17           generate jobs, and provide revenue to the local  
18           economy;

19           (2) Provision of financial data and other facts showing  
20           that the applicant has the financial resources and  
21           ability to construct the casino facility;



- 1           (3) Proof of financial ability to purchase and maintain  
2           adequate liability and casualty insurance and to  
3           provide an adequate surety bond;
- 4           (4) Data on the sources and the total amount of  
5           capitalization to develop, construct, maintain, and  
6           operate the proposed casino facility;
- 7           (5) Proof of adequate capitalization to develop,  
8           construct, maintain, and operate, for the duration of  
9           a license, the proposed casino facility in accordance  
10          with the requirements of this chapter and rules  
11          adopted by the commission and to responsibly pay off  
12          its secured and unsecured debts in accordance with its  
13          financing agreement and other contractual obligations;
- 14          (6) Demonstration that the applicant or any of its  
15          qualifiers have assisted the State in developing  
16          casino gaming through their commitment of resources to  
17          support, promote, and establish casino gaming in the  
18          state. Expenditures of time, money, and effort shall  
19          all be considered in connection with this criterion.  
20          The timing of participation shall further influence  
21          this criterion, with early participation and



1 contribution to the casino development program  
2 receiving more favorable consideration;

3 (7) Demonstration that the applicant or any of its  
4 qualifiers have at least four years of experience in  
5 helping to revitalize an urban area by successfully  
6 planning, developing, and opening a land-based casino  
7 in any state that previously did not permit casino  
8 gaming. The experience in planning, developing, and  
9 opening a land-based casino in an urban area in the  
10 past five years shall receive more favorable  
11 consideration for this criterion. For purposes of  
12 this paragraph, "urban area" means a jurisdiction with  
13 a population of at least seven hundred fifty thousand;

14 (8) Indictments, convictions, guilty or nolo contendere  
15 pleas, or bail forfeitures of the applicant or any of  
16 its qualifiers for a felony within the last ten years  
17 or a misdemeanor involving gambling, theft, or fraud  
18 within the last ten years, not including traffic  
19 violations;

20 (9) A filing by or against the applicant or any of its  
21 qualifiers within the last ten years with respect to a  
22 proceeding for bankruptcy or involvement within the





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

3 (10) Failure by the applicant or any of its qualifiers  
4 within the last five tax years to pay any final amount  
5 of tax due and payable under federal, state, or local  
6 law, after exhaustion of all inter-agency appeals  
7 processes; and

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

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

19 (c) Each applicant and qualifier shall submit with the  
20 application, on forms provided by the commission, two sets of  
21 the applicant's fingerprints.



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

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

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

17 **§ -10 Bond of licensee.** Before a casino license is  
18 issued, the licensee shall file a bond in the sum of \$200,000  
19 with the department. The bond shall be used to guarantee that  
20 the licensee faithfully makes the payments, keeps books and  
21 records, makes reports, and conducts games of chance in  
22 conformity with this chapter and rules adopted by the



1 commission. The bond shall not be canceled by a surety on less  
2 than thirty days' notice in writing to the commission. If a  
3 bond is canceled and the licensee fails to file a new bond with  
4 the commission in the required amount on or before the effective  
5 date of cancellation, the licensee's license shall be revoked.  
6 The total and aggregate liability of the surety on the bond  
7 shall be limited to the amount specified in the bond.

8       **§ -11 Application deficiency.** (a) If in the review of  
9 an application submitted under this chapter, the executive  
10 director identifies an apparent deficiency that, if true, would  
11 require denial of the license or the disqualification of a  
12 qualifier, the executive director shall notify the affected  
13 applicant or qualifier in writing of the apparent deficiency.  
14 The applicant or qualifier may then request an informal  
15 conference with the executive director to discuss the factual  
16 basis of the apparent deficiency.

17       (b) The executive director shall provide the applicant or  
18 qualifier a reasonable period of time to correct the apparent  
19 deficiency and, if the apparent deficiency is not corrected  
20 within the reasonable time period, the executive director shall  
21 find that the apparent deficiency has not been corrected.

22 Following this finding, the affected applicant or qualifier



1 shall have an opportunity to appeal the executive director's  
2 finding of an apparent deficiency to the commission. The  
3 commission shall conduct an investigative hearing, pursuant to  
4 section -16 and in accordance with rules adopted under this  
5 chapter, to determine whether there is sufficient evidence to  
6 support a finding of an apparent deficiency. At the hearing,  
7 the burden of proof shall be on the executive director to  
8 demonstrate that the finding of an apparent deficiency is  
9 supported by law and facts. Any finding by the commission about  
10 a qualifier's apparent deficiency shall not constitute a final  
11 determination by the commission as to the suitability of the  
12 applicant to hold a license or the suitability of a qualifier to  
13 hold an ownership interest in a casino applicant.

14 (c) At any time prior to a finding by the commission that  
15 a qualifier is unsuitable to hold an ownership interest in a  
16 casino applicant, a qualifier shall have the ability to sell its  
17 ownership interest in the casino applicant to the casino  
18 applicant, another qualifier, or a third party.

19 (d) A qualifier who has been issued an apparent deficiency  
20 shall have the right to request that the commission expand the  
21 apparent deficiency hearing under this section to include a  
22 determination of the qualifier's suitability to hold an



1 ownership interest in the casino license applicant. If such a  
2 request is made, the commission shall determine the suitability  
3 of the affected qualifier separate from the suitability of the  
4 casino applicant and any of its other qualifiers. A request by  
5 a qualifier for an extended hearing pursuant to this section  
6 shall not prevent the commission from issuing a license to the  
7 applicant. Until the commission determines that a qualifier  
8 under this section is suitable to hold an ownership interest in  
9 the casino applicant, the casino applicant or licensee shall  
10 not:

11 (1) Make any direct or indirect payments or distributions  
12 of revenue or other benefits to the qualifier that are  
13 related in any way to the qualifier's interest in the  
14 applicant; or

15 (2) Pay any direct or indirect compensation to the  
16 qualifier for services rendered to the applicant,  
17 unless specifically approved and authorized by the  
18 commission.

19 **§ -12 Institutional investor.** (a) Unless the  
20 commission determines that an institutional investor is  
21 unqualified, an institutional investor holding less than ten per  
22 cent of the equity securities or ten per cent of the debt



1 securities of a casino licensee's affiliate or affiliated  
2 company that is related in any way to the financing of the  
3 casino licensee, shall be granted a waiver of the eligibility  
4 and suitability requirements if:

- 5 (1) The securities represent a percentage of the  
6 outstanding debt of the affiliate or affiliated  
7 company not exceeding twenty per cent, or a percentage  
8 of any issue of the outstanding debt of the affiliate  
9 or affiliated company not exceeding fifty per cent;
- 10 (2) The securities are those of a publicly-traded  
11 corporation and its holdings of such securities were  
12 purchased for investment purposes only; and
- 13 (3) Upon request by the commission, the institutional  
14 investor files with the commission a certified  
15 statement that it has no intention of influencing or  
16 affecting the affairs of the issuer, the casino  
17 licensee, or its affiliate or affiliated company.
- 18 (b) The commission may grant a waiver under this section  
19 to an institutional investor holding a higher percentage of  
20 securities than allowed in subsection (a), upon a showing of  
21 good cause and if the conditions specified in subsection (a) are  
22 met.



1 (c) An institutional investor granted a waiver under this  
2 section who subsequently intends to influence or affect the  
3 affairs of the issuer shall provide notice to the commission and  
4 file an application for a determination of eligibility and  
5 suitability before taking any action that may influence or  
6 affect the affairs of the issuer.

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

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

15 (f) The casino licensee or an affiliate or affiliated  
16 company of the casino licensee shall immediately notify the  
17 commission of any information concerning an institutional  
18 investor holding its equity or debt securities that may affect  
19 the eligibility and suitability of the institutional investor  
20 for a waiver under this section.

21 (g) If the commission finds that an institutional  
22 investor, holding any security of an affiliate or affiliated



1 company of a casino licensee that is related in any way to the  
2 financing of the casino licensee, fails to comply with the  
3 requirements of this section, or if at any time the commission  
4 finds that, by reason of the extent or nature of its holdings an  
5 institutional investor is in a position to exercise a  
6 substantial impact upon the controlling interests of a casino  
7 licensee, the commission may take any necessary action to  
8 protect the public interest, including requiring the  
9 institutional investor to satisfy the eligibility and  
10 suitability requirements under sections -8, -9, and -10.

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





1 the commission that the licensee continues to meet all of the  
2 requirements of this chapter.

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

7 (c) Casino gaming supplies and equipment shall not be  
8 distributed unless supplies and equipment conform to standards  
9 adopted by rules of the commission.

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

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



1 (4) Permanently affix its name to all its equipment,  
2 devices, and supplies, used for casino gaming  
3 operations; and

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

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

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

15 **§ -14 Occupational licenses.** (a) The commission may  
16 issue an occupational license to an applicant upon:

17 (1) The payment of a nonrefundable application fee set by  
18 the commission;

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

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



1 (b) To be eligible for an occupational license, an  
2 applicant shall:

3 (1) Be at least twenty-one-years-of-age if the applicant  
4 performs any function involved in casino gaming by  
5 patrons. Any applicant seeking an occupational  
6 license for a non-gaming function shall be at least  
7 eighteen years of age;

8 (2) Not have been convicted of a felony offense in any  
9 jurisdiction or a crime involving dishonesty or moral  
10 turpitude;

11 (3) Have demonstrated a level of skill or knowledge that  
12 the commission determines to be necessary to operate  
13 casino games in a casino facility; and

14 (4) Have met standards for the holding of an occupational  
15 license as provided in rules adopted by the  
16 commission, including background inquiries and other  
17 requirements similar to those for an operator's  
18 license.

19 (c) Each application for an occupational license shall be  
20 on forms prescribed by the commission and shall contain all  
21 information required by the commission. The applicant shall set  
22 forth in the application whether the applicant:



1 (1) Has been issued prior gaming-related licenses in any  
2 jurisdiction;

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

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

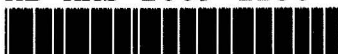
9 (d) Each applicant shall submit with the application two  
10 sets of the applicant's fingerprints. The commission shall  
11 charge each applicant a fee to defray the costs associated with  
12 the search and classification of fingerprints obtained by the  
13 commission with respect to the application.

14 (e) The commission may refuse to grant an occupational  
15 license to any person:

16 (1) Who is unqualified to perform the duties required of  
17 the applicant;

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

20 (3) Who has been found guilty of a violation of this  
21 chapter or whose prior casino gaming related license  
22 or application has been suspended, restricted,



1           revoked, or denied for just cause in any other  
2           jurisdiction; or

3           (4) For any other just cause.

4           (f) The commission may suspend, revoke, or restrict any  
5 occupational licensee for:

6           (1) Any violation of this chapter;

7           (2) Any violation of the rules of the commission;

8           (3) Any cause which, if known to the commission, would  
9           have disqualified the applicant from receiving a  
10          license;

11          (4) Default in the payment of any obligation or debt due  
12          to the State or the county; or

13          (5) Any other just cause.

14          (g) A person who knowingly makes a false statement on an  
15 application is guilty of a petty misdemeanor.

16          (h) Any occupational license issued pursuant to this  
17 section shall be valid for a period of one year from the date of  
18 issuance and shall be renewable annually upon payment of the  
19 annual license fee and a determination by the commission that  
20 the occupational licensee continues to meet all of the  
21 requirements of this chapter.



1 (i) Any training provided for occupational licensees may  
2 be conducted either in a licensed casino facility or at a school  
3 with which a licensed owner has entered into an agreement.

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

9 (1) A statement of receipts and disbursements related to  
10 casino gaming pursuant to this chapter;

11 (2) A statement of the actions taken by the commission;  
12 and

13 (3) Any additional information and recommendations that  
14 the commission may deem valuable or which the governor  
15 or the legislature may request.

16 **§ -16 Hearings by the commission.** (a) Upon order of  
17 the commission, one of the commission members or a hearings  
18 officer designated by the commission may conduct any hearing  
19 provided for under this chapter related to casino gaming or by  
20 commission rule and may recommend findings and decisions to the  
21 commission. The record made at the time of the hearing shall be  
22 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 action 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 a licensed operator, subject to the following  
17 standards:

18 (1) Minimum and maximum wagers on games shall be set by  
19 the licensee;

20 (2) Agents of the commission may enter and inspect any  
21 casino facility at any time to determine compliance  
22 with this chapter;





- 1       (3) Employees of the commission shall have the right to be  
2           present in a casino facility or on adjacent facilities  
3           under the control of the licensee;
- 4       (4) Gaming equipment and supplies customarily used in  
5           conducting casino gaming shall be purchased or leased  
6           only from suppliers licensed under this chapter;
- 7       (5) Persons licensed under this chapter shall permit no  
8           form of wagering on games except as permitted by this  
9           chapter;
- 10      (6) Wagers may be received only from a person present in a  
11           licensed casino facility. No person present in a  
12           licensed casino facility shall place or attempt to  
13           place a wager on behalf of another person who is not  
14           present in the casino facility;
- 15      (7) Wagering shall not be conducted with money or other  
16           negotiable currency, except for wagering on slot  
17           machines;
- 18      (8) A person under the age of twenty-one shall not be  
19           permitted in an area of a casino facility where casino  
20           gaming is being conducted, except for a person at  
21           least eighteen years of age who is an employee of the  
22           casino facility. No employee under the age of twenty-



1           one shall perform any function involved in casino  
2           gaming by patrons. No person under the age of twenty-  
3           one shall be permitted to make a wager under this  
4           chapter;

5           (9) All tokens, chips, or electronic cards used to make  
6           wagers shall be purchased only from a licensed owner  
7           within the casino facility. The tokens, chips, or  
8           electronic cards may be purchased by means of an  
9           agreement under which the owner extends credit to the  
10          patron. The tokens, chips, or electronic cards shall  
11          be used while within a casino facility only for the  
12          purpose of making wagers on authorized games; and

13          (10) In addition to the above, casino gaming shall be  
14          conducted in accordance with all rules adopted by the  
15          commission.

16          **§ -18 Collection of amounts owing under credit**

17          **agreements.** Notwithstanding any other law to the contrary, a  
18          licensee who extends credit to a casino gaming patron shall be  
19          expressly authorized to institute a cause of action to collect  
20          any amounts due and owing under the extension of credit, as well  
21          as the operator's costs, expenses, and reasonable attorney's  
22          fees incurred in collection.



1           **§ -19 Wagering tax; rate.** A tax shall be imposed on the  
2 gross receipts received from casino gaming authorized under this  
3 chapter at the rate of ten per cent. One per cent of the tax  
4 revenues shall be used by the commission for a compulsive-  
5 gamblers program required to be established pursuant to this  
6 chapter and for public security at the gaming facilities. All  
7 administrative expenses of the commission shall be paid from the  
8 proceeds generated by this tax but shall not exceed one per cent  
9 of the tax revenues.

10           **§ -20 The state gaming fund; disposition of taxes**  
11 **collected.** There is established within the state treasury the  
12 state gaming fund to be administered by the Hawaii gaming  
13 control commission, into which shall be deposited all fees,  
14 taxes, and fines collected under this chapter. After payment of  
15 expenses incurred for the administration and enforcement of this  
16 chapter, five per cent of the revenues generated by gaming shall  
17 be remitted by the Hawaii gaming control commission on a monthly  
18 basis to any county that established a county surcharge on state  
19 tax pursuant to section 46-16.8.

20           **§ -21 Legislative oversight.** (a) Beginning with the  
21 fiscal year starting July 1, 2009, the auditor shall conduct a  
22 biennial financial and social assessment of gaming operations.



1 In conducting the assessment, the auditor shall identify the  
2 financial impacts of gaming on the state economy and the social  
3 impacts of gaming upon the community. The auditor shall submit  
4 a report of the findings and recommendations to the legislature  
5 no later than twenty days prior to the convening of the next  
6 regular session after the biennial assessment is completed.

7 (b) Beginning with the fiscal year starting on July 1,  
8 2009, the auditor shall conduct a program and financial audit of  
9 the Hawaii gaming commission. Thereafter, the auditor shall  
10 conduct a program and financial audit every four years after the  
11 first audit is completed.

12 **§ -22 Compulsive-gambler program.** The commission shall  
13 create and implement a program to assist individuals who are  
14 identified as compulsive gamblers."

15 SECTION 3. Section 92F-13, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 **"§92F-13 Government records; exceptions to general rule.**

18 This part shall not require disclosure of:

- 19 (1) Government records which, if disclosed, would  
20 constitute a clearly unwarranted invasion of personal  
21 privacy;



- 1           (2) Government records pertaining to the prosecution or  
2           defense of any judicial or quasi-judicial action to  
3           which the State or any county is or may be a party, to  
4           the extent that such records would not be  
5           discoverable;
- 6           (3) Government records that, by their nature, must be  
7           confidential [~~in order~~] for the government to avoid  
8           the frustration of a legitimate government function;
- 9           (4) Government records which, pursuant to state or federal  
10          law, including an order of any state or federal court,  
11          are protected from disclosure; [~~and~~]
- 12          (5) Inchoate and draft working papers of legislative  
13          committees, including budget worksheets and unfiled  
14          committee reports; work product; records or  
15          transcripts of an investigating committee of the  
16          legislature which are closed by rules adopted pursuant  
17          to section 21-4, and the personal files of members of  
18          the legislature[-]; and
- 19          (6) Information, records, interviews, reports, statements,  
20          memoranda, or other data supplied to or used by the  
21          Hawaii gaming control commission pursuant to  
22          section -8(e)."



1 SECTION 4. Section 264-18, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Out of the state highway fund amounts, whether state  
4 funds or federal funds, shall be expended as necessary by the  
5 State for the establishment of bikeways; provided that bikeways  
6 shall be established, whenever practicable, wherever a new or  
7 existing highway, road, or street is being designed, planned,  
8 constructed, reconstructed, relocated, or rehabilitated. At  
9 least two per cent of eligible federal funds, and in addition,  
10 other state highway fund moneys as available, shall be expended  
11 to:

12 (1) Establish multi-use paths, bicycle paths, and bicycle  
13 lanes; and

14 (2) Install signage and safety devices along bikeways;  
15 provided that the department of transportation shall include the  
16 bicycling community in a public involvement process to determine  
17 the location of multi-use paths, bicycle paths, bicycle lanes,  
18 and installation of signage and safety devices along bikeways.

19 Planning for any mass transit system shall include  
20 appropriate accommodation for bicycle lanes, bikeways, and  
21 bicycle routes, including bicycle racks on mass transit

1 vehicles, to enable mass transit users to connect conveniently  
2 by bicycle to transit stations and bus stops.

3 ~~[This subsection shall not be construed as requiring the~~  
4 ~~expenditure of a county surcharge on state tax under section~~  
5 ~~46-16.8, on bicycle paths if the application of this subsection~~  
6 ~~conflicts with section 46-16.8.]"~~

7 SECTION 5. Section 437D-8.4, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) Notwithstanding any law to the contrary, a lessor may  
10 visibly pass on to a lessee:

- 11 (1) The general excise tax attributable to the  
12 transaction;
- 13 (2) The vehicle license and registration fee and weight  
14 taxes, prorated at 1/365th of the annual vehicle  
15 license and registration fee and weight taxes actually  
16 paid on the particular vehicle being rented for each  
17 full or partial twenty-four-hour rental day that the  
18 vehicle is rented; provided the total of all vehicle  
19 license and registration fees charged to all lessees  
20 shall not exceed the annual vehicle license and  
21 registration fee actually paid for the particular  
22 vehicle rented;



1           (3) The rental motor vehicle surcharge tax as provided in  
2           section 251-2 attributable to the transaction;  
3       ~~[(4) The county surcharge on state tax under section~~  
4       ~~46-16.8; provided that the lessor itemizes the tax for~~  
5       ~~the lessee;]~~ and  
6       ~~[(5)]~~ (4) The rents or fees paid to the department of  
7       transportation under concession contracts negotiated  
8       pursuant to chapter 102, service permits granted  
9       pursuant to title 19, Hawaii Administrative Rules, or  
10       rental motor vehicle customer facility charges  
11       established pursuant to section 261-7; provided that:  
12       (A) The rents or fees are limited to amounts that can  
13       be attributed to the proceeds of the particular  
14       transaction;  
15       (B) The rents or fees shall not exceed the lessor's  
16       net payments to the department of transportation  
17       made under concession contract or service permit;  
18       (C) The lessor submits to the department of  
19       transportation and the department of commerce and  
20       consumer affairs a statement, verified by a  
21       certified public accountant as correct, that  
22       reports the amounts of the rents or fees paid to





1 the department of transportation pursuant to the  
2 applicable concession contract or service permit:

3 (i) For all airport locations; and

4 (ii) For each airport location;

5 (D) The lessor submits to the department of  
6 transportation and the department of commerce and  
7 consumer affairs a statement, verified by a  
8 certified public accountant as correct, that  
9 reports the amounts charged to lessees:

10 (i) For all airport locations;

11 (ii) For each airport location; and

12 (iii) For each lessee;

13 (E) The lessor includes in these reports the  
14 methodology used to determine the amount of fees  
15 charged to each lessee; and

16 (F) The lessor submits the above information to the  
17 department of transportation and the department  
18 of commerce and consumer affairs within three  
19 months of the end of the preceding annual  
20 accounting period or contract year as determined  
21 by the applicable concession agreement or service  
22 permit.



1           The respective departments, in their sole discretion, may  
2 extend the time to submit the statement required in this  
3 subsection. If the director determines that an examination of  
4 the lessor's information is inappropriate under this subsection  
5 and the lessor fails to correct the matter within ninety days,  
6 the director may conduct an examination and charge a lessor an  
7 examination fee based upon the cost per hour per examiner for  
8 evaluating, investigating, and verifying compliance with this  
9 subsection, as well as additional amounts for travel, per diem,  
10 mileage, and other reasonable expenses incurred in connection  
11 with the examination, which shall relate solely to the  
12 requirements of this subsection, and which shall be billed by  
13 the departments as soon as feasible after the close of the  
14 examination. The cost per hour shall be \$40 or as may be  
15 established by rules adopted by the director. The lessor shall  
16 pay the amounts billed within thirty days following the billing.  
17 All moneys collected by the director shall be credited to the  
18 compliance resolution fund."

19           SECTION 6. Section 46-16.8, Hawaii Revised Statutes, is  
20 repealed.

21           ~~["§46-16.8] County surcharge on state tax. (a) Each~~  
22 ~~county may establish a surcharge on state tax at the rates~~



1 ~~enumerated in sections 237-8.6 and 238-2.6. A county electing~~  
2 ~~to establish this surcharge shall do so by ordinance, provided~~  
3 ~~that:~~

4 ~~(1) No ordinance shall be adopted until the county has~~  
5 ~~conducted a public hearing on the proposed ordinance;~~

6 ~~(2) The ordinance shall be adopted prior to December 31,~~  
7 ~~2005; and~~

8 ~~(3) No county surcharge on state tax that may be~~  
9 ~~authorized under this section shall be levied prior to January~~  
10 ~~1, 2007.~~

11 ~~Notice of the public hearing required under paragraph (1) shall~~  
12 ~~be published in a newspaper of general circulation within the~~  
13 ~~county at least twice within a period of thirty days immediately~~  
14 ~~preceeding the date of the hearing.~~

15 ~~(b) A county electing to exercise the authority granted~~  
16 ~~under this section shall notify the director of taxation within~~  
17 ~~ten days after the county has adopted a surcharge on state tax~~  
18 ~~ordinance and, beginning no earlier than January 1, 2007, the~~  
19 ~~director of taxation shall levy, assess, collect, and otherwise~~  
20 ~~administer the county surcharge on state tax.~~

21 ~~(c) Each county with a population greater than five~~  
22 ~~hundred thousand that adopts a county surcharge on state tax~~



1 ~~ordinance pursuant to subsection (a) shall use the surcharges~~  
2 ~~received from the State for:~~

3 ~~(1) Operating or capital costs of a locally preferred~~  
4 ~~alternative for a mass transit project; and~~

5 ~~(2) Expenses in complying with the Americans with~~  
6 ~~Disabilities Act of 1990 with respect to paragraph~~  
7 ~~(1).~~

8 ~~The county surcharge on state tax shall not be used to build or~~  
9 ~~repair public roads or highways, bicycle paths, or support~~  
10 ~~public transportation systems already in existence prior to July~~  
11 ~~12, 2005.~~

12 ~~(d) Each county with a population equal to or less than~~  
13 ~~five hundred thousand that adopts a county surcharge on state~~  
14 ~~tax ordinance pursuant to subsection (a) shall use the~~  
15 ~~surcharges received from the State for:~~

16 ~~(1) Operating or capital costs of public transportation~~  
17 ~~within each county for public transportation systems,~~  
18 ~~including public roadways or highways, public buses,~~  
19 ~~trains, ferries, pedestrian paths or sidewalks, or~~  
20 ~~bicycle paths; and~~



1       ~~(2) Expenses in complying with the Americans with~~  
2           ~~Disabilities Act of 1990 with respect to paragraph~~  
3           ~~(1).~~

4       ~~(c) As used in this section, "capital costs" means~~  
5       ~~nonrecurring costs required to construct a transit facility or~~  
6       ~~system, including debt service, costs of land acquisition and~~  
7       ~~development, acquiring of rights of way, planning, design, and~~  
8       ~~construction, and including equipping and furnishing the~~  
9       ~~facility or system." ]~~

10       SECTION 7. Section 237-8.6, Hawaii Revised Statutes, is  
11       repealed.

12       ~~[ "§237-8.6] County surcharge on state tax,~~  
13       ~~administration. (a) The county surcharge on state tax, upon~~  
14       ~~the adoption of county ordinances and in accordance with the~~  
15       ~~requirements of section 46-16.8, shall be levied, assessed, and~~  
16       ~~collected as provided in this section on all gross proceeds and~~  
17       ~~gross income taxable under this chapter. No county shall set~~  
18       ~~the surcharge on state tax at a rate greater than one half per~~  
19       ~~cent of all gross proceeds and gross income taxable under this~~  
20       ~~chapter. All provisions of this chapter shall apply to the~~  
21       ~~county surcharge on state tax. With respect to the surcharge,~~  
22       ~~the director of taxation shall have all the rights and powers~~



1 ~~provided under this chapter. In addition, the director of~~  
2 ~~taxation shall have the exclusive rights and power to determine~~  
3 ~~the county or counties in which a person is engaged in business~~  
4 ~~and, in the case of a person engaged in business in more than~~  
5 ~~one county, the director shall determine, through apportionment~~  
6 ~~or other means, that portion of the surcharge on state tax~~  
7 ~~attributable to business conducted in each county.~~

8 ~~(b) Each county surcharge on state tax that may be adopted~~  
9 ~~pursuant to section 46-16.8(a) shall be levied beginning in the~~  
10 ~~taxable year after the adoption of the relevant county~~  
11 ~~ordinance; provided that no surcharge on state tax may be levied~~  
12 ~~prior to January 1, 2007.~~

13 ~~(c) The county surcharge on state tax, if adopted, shall~~  
14 ~~be imposed on the gross proceeds or gross income of all written~~  
15 ~~contracts that require the passing on of the taxes imposed under~~  
16 ~~this chapter; provided that if the gross proceeds or gross~~  
17 ~~income are received as payments beginning in the taxable year in~~  
18 ~~which the taxes become effective, on contracts entered into~~  
19 ~~before June 30 of the year prior to the taxable year in which~~  
20 ~~the taxes become effective, and the written contracts do not~~  
21 ~~provide for the passing on of increased rates of taxes, the~~  
22 ~~county surcharge on state tax shall not be imposed on the gross~~



1 ~~proceeds or gross income covered under the written contracts.~~  
2 ~~The county surcharge on state tax shall be imposed on the gross~~  
3 ~~proceeds or gross income from all contracts entered into on or~~  
4 ~~after June 30 of the year prior to the taxable year in which the~~  
5 ~~taxes become effective, regardless of whether the contract~~  
6 ~~allows for the passing on of any tax or any tax increases.~~

7 ~~(d) No county surcharge on state tax shall be established~~  
8 ~~on any:~~

9 ~~(1) Gross income or gross proceeds taxable under this~~  
10 ~~chapter at the one half per cent tax rate;~~

11 ~~(2) Gross income or gross proceeds taxable under this~~  
12 ~~chapter at the 0.15 per cent tax rate; or~~

13 ~~(3) Transactions, amounts, persons, gross income, or gross~~  
14 ~~proceeds exempt from tax under this chapter.~~

15 ~~(e) The director of taxation shall revise the general~~  
16 ~~excise tax forms to provide for the clear and separate~~  
17 ~~designation of the imposition and payment of the county~~  
18 ~~surcharge on state tax.~~

19 ~~(f) The taxpayer shall designate the taxation district to~~  
20 ~~which the county surcharge on state tax is assigned in~~  
21 ~~accordance with rules adopted by the director of taxation under~~  
22 ~~chapter 91. The taxpayer shall file a schedule with the~~



1 ~~taxpayer's periodic and annual general excise tax returns~~  
2 ~~summarizing the amount of taxes assigned to each taxation~~  
3 ~~district.~~

4 ~~(g) The penalties provided by section 231-39 for failure~~  
5 ~~to file a tax return shall be imposed on the amount of surcharge~~  
6 ~~due on the return being filed for the failure to file the~~  
7 ~~schedule required to accompany the return. In addition, there~~  
8 ~~shall be added to the tax an amount equal to ten per cent of the~~  
9 ~~amount of the surcharge and tax due on the return being filed~~  
10 ~~for the failure to file the schedule or the failure to correctly~~  
11 ~~report the assignment of the general excise tax by taxation~~  
12 ~~district on the schedule required under this subsection.~~

13 ~~(h) All taxpayers who file on a fiscal year basis whose~~  
14 ~~fiscal year ends after December 31 of the year prior to the~~  
15 ~~taxable year in which the taxes become effective, shall file a~~  
16 ~~short period annual return for the period preceding January 1 of~~  
17 ~~the taxable year in which the taxes become effective. Each~~  
18 ~~fiscal year taxpayer shall also file a short period annual~~  
19 ~~return for the period starting on January 1 of the taxable year~~  
20 ~~in which the taxes become effective, and ending before January 1~~  
21 ~~of the following year." ]~~





1 SECTION 8. Section 238-2.6, Hawaii Revised Statutes, is  
2 repealed.

3 ~~["§238-2.6] County surcharge on state tax,~~  
4 ~~administration. (a) The county surcharge on state tax, upon~~  
5 ~~the adoption of a county ordinance and in accordance with the~~  
6 ~~requirements of section 46-16.8, shall be levied, assessed, and~~  
7 ~~collected as provided in this section on the value of property~~  
8 ~~and services taxable under this chapter. No county shall set~~  
9 ~~the surcharge on state tax at a rate greater than one half per~~  
10 ~~cent of the value of property taxable under this chapter. All~~  
11 ~~provisions of this chapter shall apply to the county surcharge~~  
12 ~~on state tax. With respect to the surcharge, the director shall~~  
13 ~~have all the rights and powers provided under this chapter. In~~  
14 ~~addition, the director of taxation shall have the exclusive~~  
15 ~~rights and power to determine the county or counties in which a~~  
16 ~~person imports or purchases tangible personal property and, in~~  
17 ~~the case of a person importing or purchasing tangible property~~  
18 ~~in more than one county, the director shall determine, through~~  
19 ~~apportionment or other means, that portion of the surcharge on~~  
20 ~~state tax attributable to the importation or purchase in each~~  
21 ~~county.~~



1       ~~(b) Each county surcharge on state tax that may be adopted~~  
2 ~~shall be levied beginning in the taxable year after the adoption~~  
3 ~~of the relevant county ordinance; provided that no surcharge on~~  
4 ~~state tax may be levied prior to January 1, 2007.~~

5       ~~(c) No county surcharge on state tax shall be established~~  
6 ~~upon any use taxable under this chapter at the one-half per cent~~  
7 ~~tax rate or upon any use that is not subject to taxation or that~~  
8 ~~is exempt from taxation under this chapter.~~

9       ~~(d) The director of taxation shall revise the use tax~~  
10 ~~forms to provide for the clear and separate designation of the~~  
11 ~~imposition and payment of the county surcharge on state tax.~~

12       ~~(e) The taxpayer shall designate the taxation district to~~  
13 ~~which the county surcharge on state tax is assigned in~~  
14 ~~accordance with rules adopted by the director of taxation under~~  
15 ~~chapter 91. The taxpayer shall file a schedule with the~~  
16 ~~taxpayer's periodic and annual use tax returns summarizing the~~  
17 ~~amount of taxes assigned to each taxation district.~~

18       ~~(f) The penalties provided by section 231-39 for failure~~  
19 ~~to file a tax return shall be imposed on the amount of surcharge~~  
20 ~~due on the return being filed for the failure to file the~~  
21 ~~schedule required to accompany the return. In addition, there~~  
22 ~~shall be added to the tax an amount equal to ten per cent of the~~



1 ~~amount of the surcharge and tax due on the return being filed~~  
2 ~~for the failure to file the schedule or the failure to correctly~~  
3 ~~report the assignment of the use tax by taxation district on the~~  
4 ~~schedule required under this subsection.~~

5 ~~(g) All taxpayers who file on a fiscal year basis whose~~  
6 ~~fiscal year ends after December 31 of the year prior to the~~  
7 ~~taxable year in which the taxes become effective, shall file a~~  
8 ~~short period annual return for the period preceding January 1 of~~  
9 ~~the taxable year in which the taxes become effective. Each~~  
10 ~~fiscal year taxpayer shall also file a short period annual~~  
11 ~~return for the period starting on January 1 of the taxable year~~  
12 ~~in which the taxes become effective, and ending before January 1~~  
13 ~~of the following year." ]~~

14 SECTION 9. Section 248-2.6, Hawaii Revised Statutes, is  
15 repealed.

16 ~~[ "[§248-2.6] County surcharge on state tax; disposition of~~  
17 ~~proceeds. (a) If adopted by county ordinance, all county~~  
18 ~~surcharges on state tax collected by the director of taxation~~  
19 ~~shall be paid into the state treasury quarterly, within ten~~  
20 ~~working days after collection, and shall be placed by the~~  
21 ~~director of finance in special accounts. Out of the revenues~~  
22 ~~generated by county surcharges on state tax paid into each~~



1 ~~respective state treasury special account, the director of~~  
2 ~~finance shall deduct ten per cent of the gross proceeds of a~~  
3 ~~respective county's surcharge on state tax to reimburse the~~  
4 ~~State for the costs of assessment, collection, and disposition~~  
5 ~~of the county surcharge on state tax incurred by the State.~~  
6 ~~Amounts retained shall be general fund realizations of the~~  
7 ~~State.~~

8 ~~(b) The amounts deducted for costs of assessment,~~  
9 ~~collection, and disposition of county surcharges on state tax~~  
10 ~~shall be withheld from payment to the counties by the State out~~  
11 ~~of the county surcharges on state tax collected for the current~~  
12 ~~calendar year.~~

13 ~~(c) For the purpose of this section, the costs of~~  
14 ~~assessment, collection, and disposition of the county surcharges~~  
15 ~~on state tax shall include any and all costs, direct or~~  
16 ~~indirect, that are deemed necessary and proper to effectively~~  
17 ~~administer this section and sections 237-8.6 and 238-2.6.~~

18 ~~(d) After the deduction and withholding of the costs under~~  
19 ~~subsections (a) and (b), the director of finance shall pay the~~  
20 ~~remaining balance on [a] quarterly basis to the director of~~  
21 ~~finance of each county that has adopted a county surcharge on~~  
22 ~~state tax under section 46-16.8. The quarterly payments shall~~





**Report Title:**

Casino Gaming; Funding for Fixed Guideway Transportation System;  
Repeal of Excise-tax Increase

**Description:**

Establishes Hawaii gaming control commission and framework for casino gaming on Oahu only. Levies 10 percent tax, of which 5 percent is to be remitted to the City and County of Honolulu to fund the fixed guideway transportation system on Oahu. Repeals general excise tax surcharge to fund transit on Oahu.

