

JAN 22 2021

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# A BILL FOR AN ACT

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RELATING TO GENERATION OF STATE REVENUES.

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

1 PART I

2 SECTION 1. The legislature finds that Hawaii is facing a  
3 potential budget shortfall of more than \$2,000,000,000 due to  
4 the coronavirus disease 2019 (COVID-19) pandemic. The tourism  
5 industry, which typically reports ten million visitors per year  
6 and is the largest employer in the State, brings in a  
7 substantial portion of tax revenue. A sharp decline in arriving  
8 tourists has put fiscal pressure on the State, due to falling  
9 revenue and a rapid increase in unemployment claims. Even prior  
10 to the COVID-19 pandemic, certain state programs like education  
11 have been in dire need of funding and replenishing critical  
12 financial support from the general fund has become a tremendous  
13 challenge for the State. Therefore, additional sources of  
14 income for the State are required.

15 The purpose of this Act is to:

16 (1) Establish a Hawaii state lottery division within the  
17 department of budget and finance to oversee



1 participation by Hawaii in the Powerball and Mega  
2 Millions multistate lottery games and to allocate  
3 income from those games to the general fund;

4 (2) Establish the Hawaii gaming corporation for the  
5 purpose of conducting gambling in Hawaii; and

6 (3) Allocate proceeds to capital improvements at public  
7 schools and the University of Hawaii system;  
8 scholarships and educational loan repayments for  
9 medical students who practice in Hawaii for ten years;  
10 support for the family practice rural residency  
11 program; watershed protection; and reduction and  
12 prevention of problem gambling.

13 PART II

14 SECTION 2. The Hawaii Revised Statutes is amended by  
15 adding a new chapter to be appropriately designated and to read  
16 as follows:

17 "CHAPTER

18 HAWAII STATE LOTTERY DIVISION

19 § -1 Definitions. As used in this chapter, unless the  
20 context clearly requires otherwise:



"Director" means the executive director of the state lottery division.

"Division" or "state lottery division" means the Hawaii state lottery division established by this chapter and placed within the department of budget and finance.

"Lottery" or "state lottery" means the lottery authorized and operated pursuant to this chapter, which is limited to the Powerball and Mega Millions games.

**§ -2 Hawaii state lottery division created; executive director; appointment.** (a) There is established within the department of budget and finance a Hawaii state lottery division. The division shall operate a lottery that shall be limited to the Powerball and Mega Millions multistate lottery games.

(b) The governor shall appoint, with the advice and consent of the senate, an executive director of the division who shall be a person qualified by training and experience to administer the state lottery. The executive director shall:

(1) Serve a term concurrent with that of the governor; and



1           (2)   At the discretion of the governor, undergo a  
2                   performance review every two years, which shall be  
3                   provided to the legislature.

4           (c)   Effective July 1, 2021, the director shall be paid a  
5   salary set at eighty-seven per cent of the salary of the  
6   director of human resources development. The director shall be  
7   exempt from chapters 76 and 89 but shall be a member of the  
8   state employees' retirement system and shall be eligible to  
9   receive benefits of any state and federal employee benefits  
10   program generally applicable to officers and employees of the  
11   State, including those under chapter 87A.

12          (d)   The director shall devote the director's entire time  
13   and attention to the administration of the state lottery and  
14   shall not be engaged in any other profession or occupation.

15          (e)   The director may employ persons not subject to  
16   chapters 76 and 78 to perform and execute the duties imposed by  
17   this chapter.

18          (f)   The director shall not have a pecuniary interest in  
19   any contract or agreement to which the division is a party.

20          **§   -3   Division; director; powers and duties.**   (a)   The  
21   director shall supervise and administer the operation of the



1 lottery in accordance with this chapter and the rules adopted  
2 under this chapter.

3 (b) The director shall adopt rules in accordance with  
4 chapter 91. Rules adopted by the director shall include  
5 provisions relating to the following:

6 (1) Participation in the Powerball and Mega Millions  
7 lottery games;

8 (2) The price of lottery tickets sold, if necessary, and  
9 the method to be used in selling lottery tickets;  
10 provided that sales of lottery tickets on the Internet  
11 are prohibited;

12 (3) The type or types of locations at which lottery  
13 tickets may be sold;

14 (4) The licensing of agents to sell or distribute lottery  
15 tickets including but not limited to:

16 (A) Establishing a license application process;

17 (B) Establishing a license fee and license renewal  
18 fee structure;

19 (C) Prohibiting persons under the age of eighteen  
20 from obtaining a license and prohibiting any  
21 person who engages exclusively in the business of



1 selling lottery tickets from obtaining a license;  
2 and

3 (D) A complaints review process, which may result in  
4 the director denying, suspending, or revoking a  
5 license, after notice and hearing, for cause.

6 (5) How license fees shall be collected for deposit into  
7 the state lottery revolving fund created under  
8 section -15;

9 (6) Ensuring that in each place authorized to sell lottery  
10 tickets and in any advertising or promotion there  
11 shall be conspicuously displayed an estimate of the  
12 probability of winning;

13 (7) The manner and amount of compensation, if any, to be  
14 paid to licensed sales agents necessary to provide for  
15 the adequate availability of lottery tickets to  
16 prospective buyers and for the convenience of the  
17 public;

18 (8) The manner of payment of prizes to the holders of  
19 winning lottery tickets; and



1           (9) Matters necessary or desirable for the efficient and  
2           economical operation and administration of the lottery  
3           and the division.

4           (c) Each quarter, the director shall certify to the  
5           director of finance a full and complete statement of lottery  
6           revenues, the value of prize disbursements, and expenses for the  
7           preceding quarter.

8           §   -4   **Licenses non-transferable.** No license issued by  
9           the director to sell or distribute lottery tickets shall be  
10          assignable or transferable.

11          §   -5   **Lottery redemption agents.** The director may retain  
12          lottery redemption agents to perform functions, activities, or  
13          services in connection with the operation of the lottery,  
14          including direct payment of prizes not exceeding \$5,000, as the  
15          director deems advisable pursuant to this chapter and the rules  
16          adopted under this chapter. The director may make arrangements  
17          for payment of reasonable fees for those services.

18          §   -6   **Sale at unauthorized price or by unauthorized**  
19          **person; violation.** (a) No person shall sell a lottery ticket  
20          at a price other than that fixed by rule. No person other than  
21          a licensed lottery sales agent or any employee of a licensed



1 lottery sales agent acting within the scope of the employee's  
2 employment shall sell lottery tickets. This section shall not  
3 prohibit a person from giving lottery tickets to another person  
4 as a gift.

5 (b) Persons who violate this section shall, for each  
6 ticket sold, pay a fine equal to the difference in the price  
7 charged for the lottery ticket and the price fixed by rule, to  
8 be deposited into the state lottery revolving fund established  
9 by section -15. The director may impose additional penalties  
10 pursuant to section (e).

11 (c) Any person who knowingly conducts any activity for  
12 which a license is required by this chapter or by rule, without  
13 the required license, shall pay a fine equal to five times the  
14 total of the profits resulting from the prohibited activity,  
15 which shall be deposited into the state lottery revolving fund,  
16 and shall be required to perform community service. The amount  
17 of community service shall not be less than ten hours or more  
18 than one hundred hours.

19 (d) Any person that unknowingly purchases a lottery ticket  
20 from an unlicensed vendor shall still be entitled to any prizes  
21 they may win.





1           (e) The director shall adopt rules to establish penalties  
2 for a licensed agent who violates the division's rules or this  
3 chapter; provided that the penalties for a subsequent violation  
4 within any twelve-month period shall be more severe than the  
5 penalty for a prior violation.

6           **§ -7 Sale to persons using state-issued electronic**  
7 **benefits transfer cards; violation.** (a) No licensed lottery  
8 sales agent shall sell a lottery ticket to a person using a  
9 public assistance voucher issued by any public entity or an  
10 electronic benefits transfer card issued by the department of  
11 human services to purchase a lottery ticket.

12           (b) No licensed lottery sales agent shall sell a lottery  
13 ticket during the same transaction in which a person uses either  
14 a public assistance voucher issued by any public entity or an  
15 electronic benefits transfer card issued by the department of  
16 human services.

17           **§ -8 Prosecution; payment of costs.** (a) The attorney  
18 general and the prosecuting attorney of the affected county  
19 shall have concurrent jurisdiction over any offenses arising out  
20 of or in connection with the formation, management, operation,  
21 or conduct of the state lottery.



1 (b) The director shall include, as an expense of the  
2 division, all costs incurred by the attorney general or a  
3 prosecuting attorney as a result of prosecution of a person  
4 pursuant to subsection (a). The director shall authorize  
5 reimbursement of prosecution costs on presentation of a  
6 certified invoice signed by the attorney general or a  
7 prosecuting attorney.

8 (c) As used in this section, "prosecution costs" may  
9 include but are not limited to costs for personnel, expenses,  
10 fees, and other costs necessary in the preparation and  
11 prosecution of a person pursuant to subsection (a).

12 **§ -9 Sales to minors prohibited; exception; penalties.**

13 (a) A lottery ticket shall not be sold to any person under the  
14 age of eighteen; provided that this section shall not be deemed  
15 to prohibit the purchase of a ticket by a person eighteen years  
16 of age or older for the purpose of making a gift to a person  
17 younger than the age of eighteen.

18 (b) Any licensed lottery sales agent who knowingly sells  
19 or offers to sell a lottery ticket to any person under the age  
20 of eighteen shall forfeit their license to sell or distribute  
21 lottery tickets for a period of one year.



1           **§   -10   Payment of prizes to minor.**   If the person

2   entitled to a prize is under the age of eighteen and the prize  
3   is less than \$1,000, the director may pay the prize to an adult  
4   member of the minor's family or a guardian of the minor by a  
5   check or draft payable to the order of the minor.   If the prize  
6   is \$1,000 or more, the director shall pay the minor by  
7   depositing the amount of the prize in any bank to the credit of  
8   an adult member of the minor's family or a guardian of the minor  
9   as a custodian for the minor.   The director shall be discharged  
10  of all further liability upon payment of a prize to a minor  
11  pursuant to this section.

12           **§   -11   Right to prize not assignable; exceptions.**   (a)

13   The right of any person to a prize shall not be assignable;  
14   provided that:

- 15           (1)   Payment of any prize drawn or the remainder of any  
16               annuity purchased may be paid to any of the following:
- 17               (A)   The estate of a deceased prize winner;
- 18               (B)   The beneficiary of a deceased prize winner; or
- 19               (C)   A person pursuant to an appropriate judicial  
20               order;



1           (2)   Payments to winners in an amount of \$1,000 or more  
2                   shall be subject to setoff pursuant to section     -17;  
3                   and

4           (3)   If a voluntary assignment occurs, the remainder of any  
5                   annuity, or a portion of the remainder of the annuity  
6                   may be assigned by a prize winner pursuant to an  
7                   appropriate judicial order if all of the following  
8                   conditions are met:

9           (A)   The prize winner provides an affidavit to the  
10                   court to the effect that the affiant is of sound  
11                   mind, not acting under duress, and has received  
12                   independent financial and tax advice concerning  
13                   the assignment;

14          (B)   The prize winner pays the assignee a lump sum  
15                   under the assignment agreement for all amounts  
16                   that are due to the prize winner on or before the  
17                   date that the assignment takes effect; and

18          (C)   The parties to the assignment pay a fee, to be  
19                   determined by the director, to the division to  
20                   defray the expenses incurred by the division in  
21                   processing the assignment.  Moneys collected by



1                   the division pursuant to this subparagraph shall  
2                   be deposited in the state lottery revolving fund  
3                   established by section       -15.

4           (b) On receipt of a court order that meets the  
5 requirements of subsection (a)(3), the director shall make the  
6 voluntary assignment.

7           (c) The director shall be discharged of all further  
8 liability upon payment of a prize pursuant to this section.

9           **§   -12   Disposition of revenue.** (a) All annual revenues  
10 accruing from the sale of lottery tickets or shares and from all  
11 other sources, unless otherwise specified, shall be deposited in  
12 the state lottery revolving fund established by section       -15  
13 to be expended for the following:

14           (1) The payment of costs incurred in the operation and  
15               administration of the lottery, including the expenses  
16               of the division and the costs resulting from any  
17               contract or contracts entered into for consulting or  
18               operational services;

19           (2) Independent audits, which shall be performed annually  
20               in addition to the audits required by section       -19;



1           (3)    Payment of compensation to licensed lottery sales  
2                   agents necessary to provide for the adequate  
3                   availability of lottery tickets or services to  
4                   prospective buyers and for the convenience of the  
5                   public;

6           (4)    The payment of reasonable fees to lottery redemption  
7                   agents as authorized by section       -5; and

8           (5)    The purchase or lease of lottery equipment, lottery  
9                   tickets, and materials.

10          (b)    Funds necessary to participate in the Powerball and  
11   Mega Millions lottery games shall be deposited in the state  
12   lottery prize revolving fund established by section       -17 for  
13   payment of prizes to the holders of winning lottery tickets or  
14   for the purposes provided for in section       -13.

15          (c)    All other revenues accruing from the sale of lottery  
16   tickets shall be deposited in the state lottery revolving fund  
17   established by section       -15 to be used as specified by  
18   section       -16.

19          (d)    Revenues expended under subsection (a) shall be  
20   subject to legislative appropriation.



1       **§ -13 Disposition of unclaimed prize money.** Unclaimed  
2 prize money for the prize on a winning lottery ticket shall be  
3 retained for the person entitled to the prize for one hundred  
4 eighty days after the drawing in which the prize was won. If a  
5 claim is not made for the money within the applicable period,  
6 the money shall be deposited in the state lottery revolving fund  
7 established by section -15.

8       **§ -14 Deposit of moneys received by agents from sales;**  
9 **power of director; reports.** The director, in the director's  
10 discretion, may require any or all licensed lottery sales agents  
11 to deposit to the credit of the state lottery revolving fund  
12 established by section -15 in banks designated by the  
13 director of finance, all moneys received by those agents from  
14 the sale of lottery tickets, less the amount, if any, retained  
15 as compensation for the sale of the lottery tickets, and to file  
16 with the director reports of their receipts and transactions in  
17 the sale of lottery tickets in a form and containing the  
18 information as the director may require. The director may make  
19 any arrangements for any person, including a bank, to perform  
20 any functions, activities, or services in connection with the



1 operation of the lottery as the director may deem advisable  
2 pursuant to this chapter and the rules of the division.

3       **§ -15 State lottery revolving fund.** There is  
4 established in the state treasury the state lottery revolving  
5 fund consisting of all revenues received from the sale of  
6 lottery tickets, fees, or penalties, if any, charged pursuant to  
7 this chapter and all other moneys credited or transferred from  
8 any other fund or source pursuant to statute, with the exception  
9 of those moneys set aside for payment of prizes and deposited as  
10 provided in section -17.

11       **§ -16 Use of moneys in state lottery revolving fund;**  
12 **report.** (a) The moneys in the state lottery revolving fund  
13 shall be expended by the director for the expenses of the  
14 division incurred in carrying out its powers and duties and in  
15 the operation of the lottery.

16       (b) Any unexpended moneys remaining in the state lottery  
17 revolving fund shall be deposited into the general fund.

18       **§ -17 State lottery prize revolving fund; setoff for**  
19 **state debts; notification to department of human services.** (a)  
20 There is established in the state treasury the state lottery  
21 prize revolving fund. That portion of the gross proceeds of





1 lottery ticket sales set aside for prizes as necessary for  
2 participation in Mega Millions and Powerball lottery games shall  
3 be deposited, pursuant to chapter 38, to the credit of the state  
4 lottery prize revolving fund as the division receives those  
5 proceeds and shall be available to the director for payment of  
6 prizes to the holders of winning lottery tickets or for the  
7 purposes provided in section -13. Procedures for payments to  
8 winners from the revolving fund shall be established by rule.  
9 Notwithstanding any rule to the contrary, transfers or payment  
10 to or from the state lottery prize revolving fund, and deposits  
11 into the state lottery prize revolving fund, shall not be  
12 subject to appropriation by the legislature.

13 (b) Payments to winners that are payable by the director  
14 or lottery redemption agents pursuant to this section in an  
15 amount of \$1,000 or more shall be subject to setoff under  
16 section -18.

17 (c) The department of human services shall reimburse the  
18 division for the cost of providing any information the  
19 department of budget and finance requests.

20 § -18 Prizes; setoff for debts to state agencies;  
21 definitions. (a) The director shall establish a liability



1 setoff program by which state lottery prize payments pursuant to  
2 section -17 may be used to satisfy debts that a person owes  
3 the State. The program shall comply with the standards and  
4 requirements described in this section.

5 (b) If a person owes an agency a debt, an agency may  
6 notify the director, providing at a minimum the state agency or  
7 program identifier; the first name, last name, middle initial,  
8 and social security number of the debtor; and the amount of the  
9 debt. This information shall be in a form prescribed by the  
10 director. Each agency shall certify the information and update  
11 the information monthly. No information shall be transmitted by  
12 the department of taxation to the director if the transmission  
13 would violate section 231-1.5.

14 (c) The director shall match the information submitted by  
15 the agency with persons who are entitled to a state lottery  
16 prize payment in an amount of \$1,000 or more. If there is a  
17 match, the director shall set off the amount of the debt from  
18 the prize due and notify the person of the person's right to  
19 appeal to the appropriate court, or to request a review by the  
20 agency pursuant to agency rule. The person shall make the  
21 request or appeal within thirty days after the setoff. If the



1 setoff accounts for only a portion of the prize due, the  
2 remainder of the prize shall be paid to the person. The  
3 director shall promptly transfer the setoff, less the amount of  
4 the division's fee, to the agency.

5 (d) If a person requests a review by the agency or  
6 provides the agency with proof that an appeal has been taken to  
7 the appropriate court within thirty days after the setoff and it  
8 is determined that the setoff was made in error under this  
9 section, the agency shall reimburse the person with the interest  
10 as determined pursuant to section 478-2.

11 (e) The basis for a request for review shall not include  
12 the validity of the claim if its validity has been established  
13 at an agency hearing, by judicial review in a court of competent  
14 jurisdiction, or by final administrative decision, and shall  
15 state with specificity why the person claims the obligation does  
16 not exist or why the amount of the obligation is incorrect.

17 (f) The director may prescribe a fee to be collected from  
18 each agency utilizing the setoff procedure. The amount of the  
19 fee shall reasonably reflect the actual cost of the service  
20 provided.



1           (g) If more than one agency has one or more delinquent  
2 accounts for the same person, and the prize is insufficient to  
3 satisfy the debt owed to each agency or for each account, the  
4 director shall apportion the prize equally among them; provided  
5 that a setoff to the department of human services for overdue  
6 support shall have priority over all other setoffs.

7           (h) If the prize is insufficient to satisfy the entire  
8 debt, the remainder of the debt may be collected by an agency as  
9 provided by law or resubmitted for setoff against any other  
10 prize awarded.

11           (i) An agency shall not enter into an agreement with a  
12 debtor for the assignment of any prospective prize to the agency  
13 in satisfaction of the debt.

14           (j) As used in this section, unless the context otherwise  
15 requires:

16           "Agency" means a department, agency, board, commission, or  
17 institution of the State. "Agency" includes an entity under  
18 contract with the State that provides a service that would  
19 otherwise be provided by a department, agency, board,  
20 commission, or institution of the State if:



1 (1) The contract specifically authorizes participation in  
2 the liability setoff program;

3 (2) The department of the attorney general has reviewed  
4 the contract and approves of the authorization; and

5 (3) The participation in the liability setoff program is  
6 limited to debts related to the services the entity  
7 provides for or on behalf of the State.

8 "Debt" means an amount of over \$100 owed to an agency by a  
9 person and may include interest, penalties, charges, costs,  
10 fees, or any other amount. "Debt" includes moneys owed by a  
11 person for overdue support and referred to the department of  
12 human services for collection.

13 "Overdue support" means a delinquency in court-ordered  
14 payments for support or maintenance of a child or for spousal  
15 maintenance to the parent with whom the child is living if child  
16 support is also being enforced pursuant to an assignment or  
17 application fee filed under title 42 United States Code section  
18 654 (6) .

19 § -19 Audit of accounts. The certified public  
20 accountant hired to perform the annual audit under  
21 section -12(a)(2) shall conduct postaudits of all accounts



1 and transactions of the division for twelve lottery games per  
2 year. The certified public accountant conducting an audit under  
3 this chapter shall have access and authority to examine any and  
4 all records of the division, its lottery redemption agents, and  
5 its licensed lottery sales agents.

6       **§ -20 Lottery commencement.** A lottery shall be  
7 commenced no later than July 1, 2021."

8       SECTION 3. Section 712-1220, Hawaii Revised Statutes, is  
9 amended by amending the definition of "gambling" to read as  
10 follows:

11       ""Gambling". A person engages in gambling if he stakes or  
12 risks something of value upon the outcome of a contest of chance  
13 or a future contingent event not under his control or influence,  
14 upon an agreement or understanding that he or someone else will  
15 receive something of value in the event of a certain outcome.

16 Gambling does not include: lottery tickets and other items used  
17 in playing the Powerball or Mega Millions lottery schemes as  
18 overseen by the Hawaii state lottery division pursuant to

19 chapter \_\_\_\_\_; bona fide business transactions valid under the  
20 law of contracts, including but not limited to contracts for the  
21 purchase or sale at a future date of securities or



1 commodities[7]; and agreements to compensate for loss caused by  
 2 the happening of chance, including but not limited to contracts  
 3 of indemnity or guaranty and life, health, or accident  
 4 insurance."

5 PART III

6 SECTION 4. The Hawaii Revised Statutes is amended by  
 7 adding a new chapter to be appropriately designated and to read  
 8 as follows:

9 "CHAPTER

10 HAWAII GAMING CORPORATION

11 § -1 Definitions. As used in this chapter, the term:

12 "Board" means the board of directors of the corporation.

13 "Chief executive officer" means the chief executive officer  
 14 of the corporation.

15 "Community betterment purposes" means:

- 16 (1) Funding public education related to technology;
- 17 (2) Assisting teachers, principals, vice-principals, and  
 18 other staff in the public school system with their  
 19 professional development; and
- 20 (3) Addressing heat abatement issues in the public school  
 21 system.



1 "Corporation" means the Hawaii gaming corporation.

2 "Lottery", "lottery game", or "lottery games" means any  
3 game of chance approved by the board and operated pursuant to  
4 this chapter, including but not limited to interactive instant  
5 win games and draw games. "Lottery" does not include playing  
6 the Powerball or Mega Millions lottery schemes as overseen by  
7 the Hawaii state lottery division pursuant to chapter .

8 "Major procurement contract" means any product or service  
9 contract for an amount in excess of \$75,000.

10 "Member" or "members" means a director or directors of the  
11 board.

12 "Net proceeds" means all revenue derived from the  
13 operations of the corporation, less operating expenses.

14 "Operating expenses" means all costs of doing business,  
15 including but not limited to prizes, bonuses, advertising and  
16 marketing costs, costs related to the gaming provider, personnel  
17 costs, capital costs, funds for problem gambling education and  
18 treatment, and other operating costs.

19 "Person" means any individual, corporation, partnership,  
20 unincorporated association, or other legal entity.





1 "Vendor" means a person who provides or proposes to provide  
2 goods or services to the corporation pursuant to a major  
3 procurement contract, but does not include an employee of the  
4 corporation, or an agency or instrumentality of the State.

5 § -2 **Hawaii gaming corporation established.** There is  
6 established a body corporate and politic to be known as the  
7 Hawaii gaming corporation, which shall be deemed to be an  
8 instrumentality of the State but shall not be deemed a state  
9 agency. The corporation shall be a public corporation  
10 registered with the director of commerce and consumer affairs  
11 and shall be subject to the corporate laws of the State. Venue  
12 for the corporation shall be the first circuit.

13 § -3 **Purpose and authority of corporation.** (a) The  
14 purpose of the corporation shall be to conduct and regulate  
15 wagering and gaming for the benefit of the State and for  
16 community betterment purposes, with the assistance of a private  
17 gaming provider, pursuant to this chapter and rules adopted  
18 hereunder.

19 (b) The corporation may:

20 (1) Offer wagering on games of chance and games of skill,  
21 including lottery, poker, and casino games, to



1 individuals over the age of eighteen years; provided  
2 that the corporation shall not offer wagering on any  
3 sporting event or sporting contest;

4 (2) Enter into agreements with other state gaming entities  
5 for the offering of multistate games, consistent with  
6 state and federal law;

7 (3) Utilize the broad reach of its gaming platform to  
8 offer legally compliant free-play games and  
9 sweepstakes with Hawaii related prizes to individuals  
10 outside of Hawaii, for the purpose of attracting  
11 tourists and providing free exposure for Hawaii and  
12 Hawaii businesses to domestic and overseas markets;

13 (4) Conduct no more than two gaming entertainment events  
14 annually, related to the corporation's other game  
15 offerings, for the purpose of attracting tourists to  
16 Hawaii; provided that the corporation shall not have  
17 the authority to conduct any other form of event-based  
18 gambling; and

19 (5) Engage in other activities consistent with the purpose  
20 of this chapter and rules adopted hereunder, and with  
21 state, federal, and international laws.



1           §   -4 Board of directors; membership; reimbursement for  
2 expenses; conflict of interests; quorum. (a) The corporation  
3 shall be governed by a board of directors composed of seven  
4 members. Three members shall be appointed by the governor, two  
5 shall be appointed by the president of the senate, and two shall  
6 be appointed by the speaker of the house of representatives.

7           (b) Members shall be prominent persons in their business  
8 or profession and shall not have been convicted of any felony  
9 offense. The board shall include individuals with knowledge and  
10 expertise in lottery and gaming, marketing and entertainment,  
11 technology, accounting, law, and operation of a business  
12 enterprise.

13           (c) Members shall serve for terms of five years; provided  
14 that of the initial members appointed, three shall be appointed  
15 for a term of two years, two shall be appointed for a term of  
16 four years, and two shall be appointed for a term of five years.  
17 Any vacancy occurring on the board shall be filled by the  
18 governor by appointment for the unexpired term.

19           (d) Members shall not have any interest in an undertaking  
20 that puts their personal interest in conflict with that of the



1 corporation, including but not limited to an interest in a major  
2 procurement contract or a participating vendor.

3 (e) The board may delegate to any one or more of its  
4 members, to the chief executive officer, or to any agent or  
5 employee of the corporation any powers and duties as it may deem  
6 proper.

7 (f) A majority of members shall constitute a quorum for  
8 the transaction of any business and for the exercise of any  
9 power or function of the corporation.

10 (g) Action may be taken and motions and resolutions  
11 adopted by the board at any meeting thereof by the affirmative  
12 vote of a majority of present and voting members.

13 (h) No vacancy in the membership of the board shall impair  
14 the right of the members to exercise all the powers and perform  
15 all the duties of the board.

16 (i) The members shall be compensated in the amount of  
17 \$ per year and shall be reimbursed for expenses,  
18 including travel expenses, necessary for the performance of  
19 their duties.



1           §   -5 Board of directors; powers and duties. In addition  
2 to any other powers and duties authorized by law, the board  
3 shall:

4           (1) Select a gaming provider, pursuant to the requirements  
5 of this chapter;

6           (2) Adopt regulations, policies, and procedures relating  
7 to the conduct of games and the gaming provider,  
8 including but not limited to rules governing:

9           (A) Type of games to be conducted;

10          (B) Price points for games and percentage of rake;

11          (C) Forms of payment accepted and prohibited;

12          (D) Number and amount of prizes;

13          (E) Method of selecting winners and validating  
14 winnings;

15          (F) Manner and time of payment of prizes;

16          (G) Frequency of games, and drawings or selection of  
17 winning tickets or shares;

18          (H) Means of conducting drawings for lottery games;

19          (I) Responsible gaming;

20          (J) The conduct of the gaming provider;

21          (K) The gaming platform; and



(L) Any and all other matters necessary, desirable, or convenient toward ensuring the efficient and effective operation of gaming;

(3) Provide the chief executive officer with private sector perspective and direction;

(4) Approve, disapprove, amend, or modify the budget recommended by the chief executive officer for the operation of the corporation;

(5) Approve, disapprove, amend, or modify the terms of the major procurements recommended by the chief executive officer; and

(6) Perform other functions as necessary to carry out the purposes of this chapter.

**§ -6 Chief executive officer; appointment; compensation.**

The board shall appoint and provide for the compensation of a chief executive officer who shall be an employee of the corporation and who shall serve at the pleasure of the board.

The chief executive officer shall direct the day-to-day operations and management of the corporation and shall be vested with powers and duties as specified by the board and by law.



1       §   -7 Chief executive officer; powers and duties. The  
2 chief executive officer shall direct and supervise all  
3 administrative and technical activities in accordance with this  
4 chapter and with regulations, policies, and procedures adopted  
5 by the board. It shall be the duty of the chief executive  
6 officer to:

- 7       (1) Supervise and exercise active oversight of the  
8           operations of the gaming provider;
- 9       (2) Hire and supervise a small staff of employees, as  
10           deemed necessary; provided that all applicants for  
11           employment shall be subject to a background check;  
12           provided further that no person who has been convicted  
13           of a felony or bookmaking or other forms of illegal  
14           gambling or of a crime involving moral turpitude shall  
15           be employed by the corporation;
- 16       (3) In consultation with the gaming provider, prepare an  
17           annual budget, including a marketing budget, for the  
18           approval of the board;
- 19       (4) Report quarterly to the board a full and complete  
20           statement of gaming revenues and expenses for the  
21           preceding quarter; and



(5) Perform any other duties customary of the position of chief executive officer.

**§ -8 General powers of the corporation.** The corporation is granted comprehensive and extensive powers as generally exercised by corporations engaged in for-profit business activities and all powers as are necessary or convenient to effectuate those purposes and provisions of this chapter that are not in conflict with the state constitution or federal law, including to:

(1) Sue and be sued in contract and in tort and to complain and defend in all courts;

(2) Adopt and alter a seal;

(3) Adopt, amend, and repeal bylaws, regulations, and policies and procedures for the regulation of its affairs and the conduct of its business;

(4) Elect and prescribe the duties of officers and employees of the corporation and to perform such other matters as the corporation may determine;

(5) Procure or provide insurance;

(6) Hold copyrights, trademarks, and service marks and enforce its rights with respect thereto;





- 1           (7)   Initiate, supervise, and administer the operation of  
2           games in accordance with this chapter and regulations,  
3           policies, and procedures adopted pursuant thereto;  
4           (8)   Enter into written agreements with one or more other  
5           states or sovereigns for the operation, participation  
6           in marketing, and promotion of joint games;  
7           (9)   Conduct such market research as is necessary or  
8           appropriate;  
9           (10)  Acquire or lease real property and make improvements  
10          thereon and acquire by lease or by purchase personal  
11          property, including but not limited to computers;  
12          mechanical, electronic, and on-line equipment and  
13          terminals; and intangible property, including but not  
14          limited to computer programs, systems, and software;  
15          (11)  Enter into contracts, incur debt in its own name, and  
16          enter into financing agreements with the State,  
17          agencies or instrumentalities of the State, or with  
18          any commercial bank or credit provider; provided that  
19          any such debt shall be approved by the director of  
20          finance;



- 1       (12) Administer oaths, take depositions, issue subpoenas,  
2           and compel the attendance of witnesses and the  
3           production of books, papers, documents, and other  
4           evidence relative to any investigation or proceeding  
5           conducted by the corporation;
- 6       (13) Appoint and select officers, agents, and employees,  
7           including professional and administrative staff and  
8           personnel, as deemed necessary;
- 9       (14) Select and contract with vendors;
- 10      (15) Enter into contracts or agreements with state or local  
11           law enforcement agencies for the performance of law  
12           enforcement, background investigations, and security  
13           checks;
- 14      (16) Establish and maintain banking relationships,  
15           including but not limited to establishment of checking  
16           and savings accounts and lines of credit;
- 17      (17) Advertise and promote games; and
- 18      (18) Adopt and amend regulations, policies, and procedures  
19           as necessary to exercise its powers, fulfill its  
20           duties, organize and operate the corporation, regulate  
21           the conduct of games, and as otherwise necessary or



1           desirable for the efficient and effective operation of  
2           the corporation and effectuation of the purposes of  
3           this chapter; provided that the corporation shall be  
4           exempt from chapter 91 regarding the adoption of  
5           bylaws, regulations, policies, and procedures or in  
6           the exercise of any regulatory power.

7           **§   -9   Corporation authorized to borrow money; restriction**  
8           **on use of money in state general fund; lottery and gaming**

9           **special fund.** (a) The corporation, in accordance with this  
10          chapter, may borrow or accept and expend moneys received from  
11          any source, including income from the corporation's operations,  
12          for effectuating its corporate purposes, including the payment  
13          of the initial expenses of initiation, administration, and  
14          operation of the corporation.

15          (b) The corporation shall be self-sustaining and self-  
16          funded. Moneys in the state general fund shall not be used or  
17          obligated to pay the expenses of the corporation or prizes of  
18          the lottery, and no claim for the payment of an expense of the  
19          lottery or prizes of the lottery may be made against any moneys  
20          other than moneys credited to the gaming special fund.



(c) There is created within the state treasury a special fund to be known as the gaming special fund. Moneys authorized under this chapter may be deposited into the special fund.

(d) The corporation may purchase, lease, or lease-purchase goods or services as necessary for effectuating the purposes of this chapter.

**§ -10 Reports by the corporation.** To ensure the financial integrity of gaming operations, the corporation through the board shall:

(1) Submit quarterly and annual reports to the governor and legislature, disclosing the total revenues, prize disbursements, operating expenses, and administrative expenses of the corporation during the reporting period;

(2) Adopt a system of internal audits and controls;

(3) Maintain regular records of transactions; and

(4) Contract with a certified public accountant or firm for an annual financial audit of the corporation; provided that the certified public accountant or firm shall have no financial interest in any vendor with whom the corporation is under contract.



1           §   -11 Bidding requirements and procedures for contracts

2 **generally.** (a) The corporation shall enter into contracts for  
3 major procurements with a value of over \$75,000 only after  
4 engaging in a competitive process. Procurements conducted by  
5 the corporation shall not be subject to chapter 103D but shall  
6 be designed to allow the selection of proposals that provide the  
7 greatest long-term benefit to the State, the greatest integrity  
8 for the corporation, and the best service and products for the  
9 public. The requirement for a competitive process shall not  
10 apply in the case of a single vendor having exclusive rights to  
11 offer a particular service or product.

12           (b) The corporation shall investigate the responsibility,  
13 security, and integrity of any vendor who is a finalist in  
14 submitting a bid, proposal, or offer as part of a major  
15 procurement. The corporation shall not select a vendor with  
16 questionable integrity for any major procurement.

17           (c) A solicitation, request for qualification, or  
18 specification for a contract shall not require, stipulate,  
19 suggest, or encourage a monetary or other financial contribution  
20 or donation as an explicit or implied term or condition for  
21 awarding or completing the contract.



(d) No vendor or applicant for a major procurement contract shall pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, excluding food and beverages having an aggregate value not exceeding \$100 in any calendar year, to the chief executive officer, any member, or any employee of the corporation or to a member of the immediate family residing in the same household of the chief executive officer, member, or employee.

**§ -12 Adoption of gaming rules.** Within one hundred eighty days of the appointment of all members, the board shall adopt rules and policies governing its gaming operations, consistent with the requirements of this chapter. The board may retain a neutral advisor with expertise in gaming to assist the board in adopting its rules.

**§ -13 Responsible gaming measures.** The corporation's website shall provide information on problem gambling, including a problem gambling hotline telephone number that a person may call to seek information and assistance for a potential gambling addiction. The corporation shall offer responsible gambling services, such as self-exclusion, limits on losses, amounts wagered, and playing time, and other services as the corporation



1 reasonably may determine are necessary and appropriate to reduce  
2 and prevent problem gambling.

3       **§ -14 Selection of the gaming provider.** (a) Within one  
4 hundred eighty days of all appointment of all members, the board  
5 shall commence a competitive process for the selection of a  
6 qualified and suitable gaming provider. The selection of the  
7 gaming provider shall be done through a request for  
8 qualifications, which shall take into account the following  
9 factors:

10       (1) The provider's knowledge and expertise with regard to:

11           (A) United States regulated gaming and lottery  
12           operations;

13           (B) Interactive digital media and entertainment; and

14           (C) Internet technology; and

15       (2) The suitability of the provider's executives and key  
16       employees to operate a legally compliant gaming  
17       enterprise with honesty, fairness, and integrity;  
18       provided that a provider that has engaged in any of  
19       the following activities shall be deemed unsuitable to  
20       serve as the corporation's internet gaming provider:



- 1 (A) The provider has accepted or assisted in the  
2 acceptance of any wagers of money or other  
3 consideration related to gambling activity,  
4 including internet poker, lottery, or casino  
5 games, from an individual located in the United  
6 States, prior to the issuance on September 20,  
7 2011, of an opinion by the United States  
8 Department of Justice pertaining to the  
9 interpretation of the Wire Act, title 18 United  
10 States Code Section 1084; provided that this  
11 subparagraph shall not apply to providers that  
12 have accepted pari-mutuel wagers on races in  
13 compliance with the Interstate Horseracing Act;
- 14 (B) The provider has operated in violation of the  
15 laws of any country or state in which it has  
16 operated; or
- 17 (C) The operator has been indicted or convicted of a  
18 crime related to its gaming operations in any  
19 state or foreign jurisdiction.

20 (b) The request for qualification shall not require,  
21 stipulate, suggest, or encourage a monetary or other financial





1 contribution or donation as an explicit or implied term or  
2 condition for awarding the contract.

3 (c) The board shall select the gaming provider that offers  
4 the greatest integrity for the corporation, the greatest long-  
5 term benefit to the State, and the best service and products for  
6 the public.

7 § -15 Responsibilities of the gaming provider. The  
8 gaming provider shall be responsible for operating a legally  
9 compliant, secure, and responsible gaming operation on behalf of  
10 the corporation. The gaming provider's general responsibilities  
11 shall include, among other things:

12 (1) Providing all the technology infrastructure, software,  
13 and operational support necessary for the development,  
14 operation, and maintenance of any websites associated  
15 with the gaming operation, including:

16 (A) Game software and graphics;

17 (B) Computer hardware;

18 (C) Server hosting;

19 (D) Player account registration and management;

20 (E) Geo-location services;

21 (F) Age-verification services;



- (G) Responsible gaming controls;
- (H) Anti-collusion and security tools;
- (I) Payment gateway software functionality;
- (J) Deposit and decline tools and services;
- (K) Charge back reporting software;
- (L) Network reconciliation and controls;
- (M) Financial reporting and player management; and
- (N) Other related administrative back office  
functionality and operational support;
- (2) Providing marketing services, including a  
comprehensive, customized marketing plan for the  
corporation, consisting of both on-line and off-line  
marketing components aimed at maximizing revenues in a  
responsible manner and attracting tourism for the  
State through the corporation's gaming operations; and
- (3) Providing customer support and trained personnel to  
respond to inquiries from players, investigate fraud  
and collusion, and any other issues that may arise.

**§ -16 Compensation of the gaming provider.** The  
corporation shall compensate the gaming provider with a  
percentage of the corporation's revenues, in addition to



1 reimbursement of ongoing costs associated with the operation of  
2 the gaming operation, including costs related to geo-location,  
3 age verification, payment processing and banking, web hosting,  
4 and bandwidth, and any amounts necessary to the implementation  
5 of the gaming operation.

6       **§ -17 Disposition of proceeds.** (a) All proceeds of  
7 gaming conducted under this chapter shall be the property of the  
8 corporation. The corporation shall pay its operating expenses  
9 from the proceeds.

10       (b) On or before the fifteenth day of each quarter, the  
11 corporation shall deposit into the gaming special fund all net  
12 proceeds derived from wagering and gaming activities during the  
13 preceding quarter.

14       (c) Funds in the gaming special fund shall be allocated as  
15 follows, with a priority on community betterment purposes:

16       (1) Public school capital improvements:           per cent;

17       (2) University of Hawaii system capital improvements:  
18                                   per cent;

19       (3) Scholarships and educational loan repayments for  
20                                   medical students who commit to practice medicine in



1           Hawaii for ten years after completion of their  
2           residency:           per cent;  
3       (4)   University of Hawaii John A. Burns school of medicine  
4           family practice rural residency program:           per  
5           cent;  
6       (5)   Watershed protection:           per cent;  
7       (6)   Problem gambling reduction and prevention programs:  
8           per cent; and  
9       (7)   Administration of the program and special fund:  
10          per cent.

11       **§   -18   Tax treatment.**   The activities of the corporation  
12 shall be deemed to constitute an essential government function,  
13 and all operations of the corporation shall be exempt from any  
14 form of taxation under state law and, to the extent allowed,  
15 under federal law.   In addition, the corporation shall not be  
16 required to pay any taxes or assessments upon or in respect to  
17 sales of lottery tickets, games, or any property or moneys of  
18 the corporation, levied by the State or any political  
19 subdivision thereof, except as required by federal law.   The  
20 corporation and its assets, property, and revenues shall at all  
21 times be exempt from taxation of every kind by the State and any



1 political subdivision thereof, including any special districts  
2 in the State with powers of taxation.

3           §     -19   Unlawful gambling.  It shall be unlawful for any  
4   person to offer or play any gambling or wagering in the State  
5   that is not authorized pursuant to this chapter or the lottery  
6   authorized by chapter           .  Any violation of this section  
7   shall be punished as provided in part III of chapter 712;  
8   provided that nothing herein shall preclude enforcement of any  
9   other civil or criminal law for a violation of this chapter."

## 10 PART IV

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 for the operations of the Hawaii state lottery division established pursuant to section 2 of this Act.

17       The sums appropriated shall be expended by the department  
18 of budget and finance for the purposes of this Act.

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or



1 applications of the Act that can be given effect without the  
2 invalid provision or application, and to this end the provisions  
3 of this Act are severable.

4 SECTION 7. This Act does not affect rights and duties that  
5 matured, penalties that were incurred, and proceedings that were  
6 begun before its effective date.

7 SECTION 8. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 9. This Act shall take effect on July 1, 2021.

10  
INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'D.K.R.', written over a horizontal line.

# S.B. NO. 853

**Report Title:**

Mega Millions; Powerball; State Lottery; Department of Budget and Finance; Gambling; Hawaii Gambling Corporation

**Description:**

Creates a state lottery division within the department of budget and finance with rulemaking authority to implement a state lottery limited to the Powerball and Mega Millions lottery games. Allocates lottery profits to the general fund. Creates lottery and lottery prizes revolving fund. Establishes the Hawaii gaming corporation for the purpose of conducting gambling in Hawaii. Allocates proceeds to capital improvements at public schools and the University of Hawaii system, scholarships and educational loan repayments for medical students who practice in Hawaii for ten years, support for the family practice rural residency program, watershed protection, and reduction and prevention of problem gambling. Appropriates funds.

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

