

JAN 18 2019

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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 Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4   "CHAPTER

5   LOTTERY AND GAMING

6           § -1 Definitions. As used in this chapter, the term:

7           "Board" means the board of directors of the Hawaii lottery  
8 and gaming corporation.

9           "Chief executive officer" means the chief executive officer  
10 of the Hawaii lottery and gaming corporation.

11           "Community betterment purposes" means:

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



1 "Corporation" means the Hawaii lottery and gaming  
2 corporation.

3 "Lottery", "lottery game", or "lottery games" means any  
4 game of chance approved by the board and operated pursuant to  
5 this chapter, including but not limited to interactive instant  
6 win games and draw games.

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

9 "Member" or "members" means a director or directors of the  
10 board of directors of the Hawaii lottery and gaming corporation.

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

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

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

20 "Vendor" means a person who provides or proposes to provide  
21 goods or services to the corporation pursuant to a major



1 procurement contract, but does not include an employee of the  
2 corporation, or an agency or instrumentality of the State.

3       **§ -2 Hawaii lottery and gaming corporation established.**

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

11       **§ -3 Purpose and authority of corporation.** (a) The  
12 purpose of the Hawaii lottery and gaming corporation shall be to  
13 conduct and regulate wagering and gaming for the benefit of the  
14 State and for community betterment purposes, with the assistance  
15 of a private gaming provider, pursuant to this chapter and rules  
16 adopted hereunder.

17       (b) The Hawaii lottery and gaming corporation may:

18       (1) Offer wagering on games of chance and games of skill,  
19           including lottery, poker, and casino games, to  
20           individuals over the age of eighteen years; provided



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- 1           that the corporation shall not offer wagering on any  
2           sporting event or sporting contest;
- 3           (2) Enter into agreements with other state gaming entities  
4           for the offering of multistate games, consistent with  
5           state and federal law;
- 6           (3) Utilize the broad reach of its gaming platform to  
7           offer legally compliant free-play games and  
8           sweepstakes with Hawaii related prizes to individuals  
9           outside of Hawaii, for the purpose of attracting  
10          tourists and providing free exposure for Hawaii and  
11          Hawaii businesses to domestic and overseas markets;
- 12          (4) Conduct no more than two gaming entertainment events  
13          annually, related to the corporation's other game  
14          offerings, for the purpose of attracting tourists to  
15          Hawaii; provided that the corporation shall not have  
16          the authority to conduct any other form of event-based  
17          gambling; and
- 18          (5) Engage in other activities consistent with the purpose  
19          of this chapter and rules adopted hereunder, and with  
20          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 of the board shall be prominent persons in  
8 their business or profession and shall not have been convicted  
9 of any felony offense. The board shall include individuals with  
10 knowledge and expertise in lottery and gaming, marketing and  
11 entertainment, technology, accounting, law, and operation of a  
12 business enterprise.

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

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



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

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

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

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

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

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



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

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

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

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

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

14           **§ -6 Chief executive officer; appointment; compensation.**

15   The board of directors shall appoint and shall provide for the  
16   compensation of a chief executive officer who shall be an  
17   employee of the corporation and who shall serve at the pleasure  
18   of the board. The chief executive officer shall direct the day-  
19   to-day operations and management of the corporation and shall be  
20   vested with powers and duties as specified by the board and by  
21   law.





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



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

3           §   -8 General powers of the corporation. The corporation  
4 is granted comprehensive and extensive powers as generally  
5 exercised by corporations engaged in for-profit business  
6 activities and all powers as are necessary or convenient to  
7 effectuate those purposes and provisions of this chapter that  
8 are not in conflict with the state constitution or federal law,  
9 including to:

- 10           (1) Sue and be sued in contract and in tort and to  
11           complain and defend in all courts;
- 12           (2) Adopt and alter a seal;
- 13           (3) Adopt, amend, and repeal bylaws, regulations, and  
14           policies and procedures for the regulation of its  
15           affairs and the conduct of its business;
- 16           (4) Elect and prescribe the duties of officers and  
17           employees of the corporation and to perform such other  
18           matters as the corporation may determine;
- 19           (5) Procure or provide insurance;
- 20           (6) Hold copyrights, trademarks, and service marks and  
21           enforce its rights with respect thereto;



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- 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;



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- 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 lottery and gaming special  
21 fund.



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

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

8 § -10 Reports by the corporation. To ensure the  
9 financial integrity of gaming operations, the corporation  
10 through the board of directors shall:

- 11 (1) Submit quarterly and annual reports to the governor  
12 and legislature, disclosing the total revenues, prize  
13 disbursements, operating expenses, and administrative  
14 expenses of the corporation during the reporting  
15 period;
- 16 (2) Adopt a system of internal audits and controls;
- 17 (3) Maintain regular records of transactions; and
- 18 (4) Contract with a certified public accountant or firm  
19 for an annual financial audit of the corporation;  
20 provided that the certified public accountant or firm



1           shall have no financial interest in any vendor with  
2           whom the corporation is under contract.

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

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

19           (c) A solicitation, request for qualification, or  
20 specification for a contract shall not require, stipulate,  
21 suggest, or encourage a monetary or other financial contribution



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

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

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

18 § -13 Responsible gaming measures. The corporation's  
19 website shall provide information on problem gambling, including  
20 a problem gambling hotline telephone number that a person may  
21 call to seek information and assistance for a potential gambling





1 addiction. The corporation shall offer responsible gambling  
2 services, such as self-exclusion, limits on losses, amounts  
3 wagered, and playing time, and other services as the corporation  
4 reasonably may determine are necessary and appropriate to reduce  
5 and prevent problem gambling.

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

- 13 (1) The provider's knowledge and expertise with regard to:  
14 (A) United States regulated gaming and lottery  
15 operations;  
16 (B) Interactive digital media and entertainment; and  
17 (C) Internet technology; and  
18 (2) The suitability of the provider's executives and key  
19 employees to operate a legally compliant gaming  
20 enterprise with honesty, fairness, and integrity;  
21 provided that a provider that has engaged in any of



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1 the following activities shall be deemed unsuitable to  
2 serve as the corporation's internet gaming provider:

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



1           (b) The request for qualification shall not require,  
2 stipulate, suggest, or encourage a monetary or other financial  
3 contribution or donation as an explicit or implied term or  
4 condition for awarding the contract.

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

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

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

18                   (A) Game software and graphics;

19                   (B) Computer hardware;

20                   (C) Server hosting;

21                   (D) Player account registration and management;



- 1 (E) Geo-location services;
- 2 (F) Age-verification services;
- 3 (G) Responsible gaming controls;
- 4 (H) Anti-collusion and security tools;
- 5 (I) Payment gateway software functionality;
- 6 (J) Deposit and decline tools and services;
- 7 (K) Charge back reporting software;
- 8 (L) Network reconciliation and controls;
- 9 (M) Financial reporting and player management; and
- 10 (N) Other related administrative back office
- 11 functionality and operational support;
- 12 (2) Providing marketing services, including a
- 13 comprehensive, customized marketing plan for the
- 14 corporation, consisting of both on-line and off-line
- 15 marketing components aimed at maximizing revenues in a
- 16 responsible manner and attracting tourism for the
- 17 State through the corporation's gaming operations; and
- 18 (3) Providing customer support and trained personnel to
- 19 respond to inquiries from players, investigate fraud
- 20 and collusion, and any other issues that may arise.



1           §   -16   **Compensation of the gaming provider.**   The  
2 corporation shall compensate the gaming provider with a  
3 percentage of the corporation's revenues, in addition to  
4 reimbursement of ongoing costs associated with the operation of  
5 the gaming operation, including costs related to geo-location,  
6 age verification, payment processing and banking, web hosting,  
7 and bandwidth, and any amounts necessary to the implementation  
8 of the gaming operation.

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

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

17           (c) Funds in the lottery and gaming special fund shall be  
18 allocated as follows, with a priority on community betterment  
19 purposes:

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



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

3           (3) Scholarships and educational loan repayments for  
4           medical students who commit to practice medicine in  
5           Hawaii for ten years after completion of their  
6           residency:           per cent;

7           (4) University of Hawaii John A. Burns school of medicine  
8           family practice rural residency program:           per  
9           cent;

10          (5) Watershed protection:           per cent;

11          (6) Problem gambling reduction and prevention programs:  
12                           per cent; and

13          (7) Administration of the program and special fund:  
14                           per cent.

15          §   -18 **Tax treatment.** The activities of the corporation  
16 shall be deemed to constitute an essential government function,  
17 and all operations of the corporation shall be exempt from any  
18 form of taxation under state law and, to the extent allowed,  
19 under federal law. In addition, the corporation shall not be  
20 required to pay any taxes or assessments upon or in respect to  
21 sales of lottery tickets, games, or any property or moneys of



1 the corporation, levied by the State or any political  
2 subdivision thereof, except as required by federal law. The  
3 corporation and its assets, property, and revenues shall at all  
4 times be exempt from taxation of every kind by the State and any  
5 political subdivision thereof, including any special districts  
6 in the State with powers of taxation.

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

14       SECTION 2. If any provision of this Act, or the  
15 application thereof to any person or circumstance, is held  
16 invalid, the invalidity does not affect other provisions or  
17 applications of the Act that can be given effect without the  
18 invalid provision or application, and to this end the provisions  
19 of this Act are severable.



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1 SECTION 3. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 4. This Act shall take effect on July 1, 2019.  
5

INTRODUCED BY:

~~SEN. AC Kishida~~  
Clarence K. Kishida  
Anne M. Mersadok  
D. K. Kishida





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**Report Title:**

Gambling; Hawaii Lottery and Gambling Corporation

**Description:**

Establishes the Hawaii lottery and 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.

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