STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS  

December 21-22, 2020  

To: Chairman and Members, Hawaiian Homes Commission  

From: Lehua Kinilau-Cano, HHL Legislative Analyst  

Subject: Approval of Legislative Proposal to Authorize Limited Casino Gaming in the Form of a Single Integrated Resort Property in Kapolei, Island of O'ahu, on Hawaiian Home Lands Designated for Commercial Use  

RECOMMENDED ACTION:  

That the Hawaiian Homes Commission approve the legislative proposal to authorize limited casino gaming in the form of a single integrated resort property in Kapolei, Island of O'ahu, on Hawaiian Home Lands designated for commercial use.  

DISCUSSION  

The Department of Hawaiian Home Lands has prepared a draft legislative proposal to be recommended for inclusion in the next Administration’s legislative package. The draft legislative proposal, upon submission, will be under review by the Department of the Attorney General, the Department of Budget & Finance, and the Governor. The proposal is pending final approval and no proposal is considered part of the package until final approval is granted. In this phase of the review process, the department may amend or withdraw the measure.  

PROPOSAL SUMMARY  

Proposal HHL-16(21)  
RELATING TO GAMING.  

This proposal authorizes limited casino gaming in the form of a single integrated resort property in Kapolei on Hawaiian Home Lands designated for commercial use in order to address historic funding shortfalls to the Department made worse by the economic shutdown from the global pandemic. The limited authorization of casino gaming would address the dire financial state of the Department by ensuring that the Department is the primary beneficiary of the gaming operation through a lease.
agreement with the licensee and through direct collection of state tax payments on gross gaming revenue.

The proposal establishes the Hawaii Gaming Commission and details the gaming license application, fee, and criteria for award of the gaming license and additional requirements. The proposal also imposes a wagering tax on gross gaming revenue, creates the State gaming fund, and appropriates funds.

RECOMMENDED ACTION/MOTION:

Staff respectfully requests approval of the motion as recommended.
A BILL FOR AN ACT

RELATING TO GAMING.

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

SECTION 1. The legislature finds that article XII, section 2 of the state constitution states in part that "The State and its people do further agree and declare that the spirit of the Hawaiian Homes Commission Act looking to the continuance of the Hawaiian homes projects for the further rehabilitation of the Hawaiian race shall be faithfully carried out."

Over twenty-eight thousand native Hawaiians are awaiting homestead leases while the department of Hawaiian home lands struggles to develop land and lots. Current costs for infrastructure development, borne by the department, are in excess of $150,000 per lot. In order to fulfill the needs of the current waitlist, the department requires over six billion dollars for infrastructure costs alone to serve its beneficiaries. This significant sum is separate and apart from costs for maintenance of existing lessee communities housing nearly ten thousand beneficiaries, upkeep of several utility systems, and other costs. Over the last decade, the legislature has funded the department at levels higher than in years past,
which has provided increased opportunity for the department of Hawaiian home lands to increase its reach. However, by conservative estimates, it will take the department at least another hundred years to meet the needs of its beneficiaries at current funding levels.

In the face of an unprecedented and historic budget shortfall as a result of the ongoing COVID-19 pandemic, the department of Hawaiian home lands must seek alternative means of revenue. One alternative is the development of an integrated resort that includes limited casino gaming in Kapolei on Hawaiian home lands designated for commercial use in order to address the staggering budget shortfall sometime this century through increased revenue for both beneficiaries and the department of Hawaiian home lands.

The downstream economic and social benefits of integrated resort development have been demonstrated globally in diverse locations such as Macau, Singapore, the Bahamas as well as across many states in the United States. In addition to enhancing existing tourism and infrastructure, the integrated resort that includes limited casino gaming increases state revenue from a new wagering tax along with traditional sources like the general excise tax and the transient accommodation tax.
Evidence from over two hundred individual gaming facilities on federal trust lands in twenty-nine states demonstrates significant economic activity through expenditures by casinos and their suppliers; job creation at the integrated resort and new businesses stimulated by increases in tourism, in State government, in education, and at suppliers to the integrated resort; wages paid to employees of the integrated resort and all impacted businesses; taxes on all taxable economic activity; and direct gaming-related payments to the State and local governments.

As a global tourism destination, Hawaii would realize similar economic and social benefits through operation and licensing of a single integrated resort that includes limited casino gaming in Kapolei on Hawaiian home lands designated for commercial use. For example, 2015 estimates for travel spending for the state of Hawaii were $21.7 billion dollars. By comparison, 2015 estimates for travel spending for the state of North Carolina were $22.8 billion dollars. In 2014, North Carolina, a state with only two tribally-operated gaming facilities realized: $1.33 billion dollars in sales tied to gaming; 11,730 jobs directly related to gaming; $530 million in salaries, wages, bonuses, tips and benefits from those jobs; and
$205 million in tax revenue and direct payments from tribal
governments to federal, state, and local government. Impacts
from integrated resort development, particularly on tribal
lands, depend on several factors and market conditions.
However, the opportunity and potential for increased revenue to
the department of Hawaiian home lands and the state will
directly address the unprecedented economic shock that threatens
to gut legislative funding for the foreseeable future.
The purpose of this Act is to authorize limited casino
gaming in the form of a single integrated resort property in
Kapolei on Hawaiian home lands designated for commercial use in
order to address historic funding shortfalls to the department
of Hawaiian home lands made worse by the economic shutdown from
the global pandemic. The limited authorization of casino gaming
would address the dire financial state of the department of
Hawaiian home lands by ensuring that the department is the
primary beneficiary of the gaming operation through a lease
agreement with the licensee and through direct collection of
eighty percent of the state tax payments on gross gaming
revenue.
SECTION 2. The Hawaii Revised Statutes is amended by
adding a new chapter to be appropriately designated and to read
as follows:

"CHAPTER

CASINO GAMING

§ 1 Limited casino gaming authorized. Casino gaming
and a system of wagering incorporated therein, as defined in
this chapter, are authorized only to the extent that casino
gaming and wagering are conducted in accordance with this
chapter. In case of any conflict between this chapter and any
other law regarding casino gaming, this chapter shall prevail.
This chapter and the rules adopted by the commission shall apply
to all persons who are licensed or otherwise participate in
gaming as permitted under this chapter.

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

"Agent" means any person who is employed by any agency of
the State other than the commission, who is assigned to perform
full-time services on behalf of or for the benefit of the
commission regardless of the title or position held by that
person.
"Applicant" means any person who applies for a license under this chapter.

"Casino gaming" or "limited casino gaming", as the context may require, means the operation of games conducted pursuant to this chapter as part of an integrated resort with a gaming license authorized by the commission.

"Chairperson" means the chairperson of the Hawaii gaming commission.

"Commission" means the Hawaii gaming commission.

"Conflict of interest" means a situation in which the private interest of a member, employee, or agent of the commission may influence the judgment of the member, employee, or agent in the performance of the member's, employee's, or agent's public duty under this chapter. A conflict of interest includes but is not limited to the following:

(1) Any conduct that would lead a reasonable person, knowing all of the circumstances, to conclude that the member, employee, or agent of the commission is biased against or in favor of an applicant;

(2) Acceptance of any form of compensation other than from the commission for any services rendered as part of
the official duties of the member, employee, or agent for the commission; or

(3) Participation in any business being transacted with or before the commission in which the member, employee, or agent of the commission or the member's, employee's, or agent's parent, spouse, or child has a financial interest.

"Department" means the department of Hawaiian home lands.

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

"Financial interest" or "financially interested" means any interest in investments, awarding of contracts, grants, loans, purchases, leases, sales, or similar matters under consideration or consummated by the commission or holding a one per cent or more ownership interest in an applicant or a licensee. For purposes of this definition, a member, employee, or agent of the commission shall be considered to have a financial interest in a matter under consideration if any of the following circumstances exist:

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

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

"Gambling" means the playing of a game by a patron of a
gaming establishment.

"Game" means a banking or percentage game played with
cards, dice, tiles, dominoes or an electronic, electrical or
mechanical device or machine played for money, property, checks
or any other representative of value which has been approved by
the commission.

"Gaming" means dealing, operating, carrying on, conducting,
maintaining or exposing any game for pay.

"Gaming device" or "gaming equipment" means an electronic,
electrical or mechanical machine used in connection with gaming
or a game.

"Gaming license" means a license issued by the commission
that permits the licensee to operate casino gaming.

"Gaming licensee" means a person or entity who holds a
gaming license from the Hawaii gaming commission.

"Gross gaming revenue" means the total of:
B. NO.

1 (1) Cash received or retained as winnings by a licensee;
2 and
3 (2) Compensation received for conducting any game in which
4 a licensee is not party to a wager.
5 "Individual" means a natural person.
6 "Integrated resort" means a destination resort property
7 that offers a wide variety of leisure and entertainment products
8 besides casino gaming, ranging from restaurants, convention
9 services, golf or other outdoor activities, pools and spas,
10 retail, aquariums, theme parks, movie and live theaters, museums
11 and sporting events.
12 "Managerial employee" means a person who holds a policy
13 making position with the commission or any licensee under this
14 chapter.
15 "Occupational license" means a license issued by the
16 commission to a person or entity to perform an occupation
17 relating to casino gaming in the State that the commission has
18 identified as an occupation that requires a license.
19 "Person" means an individual, association, partnership,
20 estate, trust, corporation, limited liability company, or other
21 legal entity.
"Supplier" means a person that the commission has identified under rules adopted by the commission as requiring a license to provide goods or services regarding the realty, construction, maintenance, or business of a proposed or existing integrated resort on a regular or continuing basis, including security businesses, manufacturers, distributors, persons who service gaming devices or equipment, garbage haulers, maintenance companies, food purveyors, and construction companies.

"Supplier's license" means a license that authorizes a supplier to furnish any equipment, devices, supplies, or services to a licensed integrated resort permitted under this chapter.

"Wagerer" means a person who plays a gambling game authorized under this chapter.

§ 3 Hawaii gaming commission. (a) There is established the Hawaii gaming commission, which shall be a body corporate and a public instrumentality of the State for the purpose of implementing this chapter. The commission shall be placed within the department of Hawaiian home lands for administrative purposes only. The department shall not direct or exert authority over the day-to-day operations or functions of the
commission. The commission shall consist of five members to be appointed by the governor with the advice and consent of the senate under section 26-34. At least one of the members shall be native Hawaiian as defined in the Hawaiian Homes Commission Act; one member shall have experience in corporate finance and securities; one member shall have experience in criminal investigations and law enforcement; one member shall have experience in legal and policy issues related to gaming; and one member may have professional experience in gaming regulatory administration or gaming industry management. The governor shall designate a member to be chairperson of the commission. The chairperson shall serve in that capacity throughout the term of appointment and until a successor shall be appointed.

Appointments of initial commission members and assignment of the chairperson shall be made within one year of the effective date of this Act.

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

(1) Is an elected state official;

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

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

(4) Has been under indictment, convicted, plead guilty or
nolo contendere, or forfeited bail for a felony or a
misdemeanor involving gambling or fraud under the laws
of this State, any other state, or the United States
within the ten years prior to appointment, or a local
ordinance in a state involving gambling or fraud that
substantially corresponds to a misdemeanor in that
state within the ten years prior to appointment.

(c) The term of office of a commission member shall be
four years or until a successor is appointed and shall be
eligible for reappointment; provided, however, that no
commission member shall serve more than eight years. Vacancies
in the commission shall be filled for the unexpired term in like
manner as the original appointments; provided that the governor
shall have ninety days following the occurrence of a vacancy to
appoint a successor member to the commission. A person
appointed to fill a vacancy in the office of a commission member shall serve for only the unexpired term of such commission member. The governor may remove a commission member if the commission member:

   (1) Is guilty of malfeasance in office;
   (2) Substantially neglects the duties of a commission member;
   (3) Is unable to discharge the powers and duties of the commission member’s office;
   (4) Commits gross misconduct; or
   (5) Is convicted of a felony.

(d) Members of the commission shall be a resident of the state of Hawaii and, while serving on the commission, shall not:

   (1) Hold, or be a candidate for, federal, state or local elected office;
   (2) Hold an appointed office in a federal, state, or local government; or
   (3) Serve as an official in a political party.

(e) The commission, subject to chapter 92, shall hold at least one meeting in each quarter of the State’s fiscal year. The commission shall hold its initial meeting within one year of the effective date of this Act. Special meetings may be called
by the chairperson or any three members upon seventy-two hours
written notice to each member. Three members shall constitute a
quorum, and a majority vote of the five members present shall be
required for any final determination by the commission. The
commission shall keep a complete and accurate record of all its
meetings.

(f) The chairperson of the commission shall serve on a
full-time basis. The other four members shall serve on a part-
time basis. The chairperson of the commission shall be paid a
salary set at eighty-seven per cent of the salary of the
chairman of the Hawaiian Homes Commission. The compensation of
the part-time members shall be eighty per cent of the hourly
wage paid the chairperson. For each hour engaged in the
official duties of the commission, each part-time member of the
commission shall be paid an hourly wage at the percentage rate
specified in this section based on the hourly wage paid the
chairperson; provided that compensation shall not exceed eighty
per cent of the total regular working hours in a month; provided
further that part-time members shall not be entitled to any
vacation, sick leave, or other benefits except as provided in
this section. All commissioners shall receive their necessary

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expenses for travel and incidentals that shall be paid from appropriations provided the commission for such purposes.

(g) Before assuming the duties of office, each member of the commission shall take an oath that the member shall faithfully execute the duties of office according to the laws of the State.

(h) The commission shall appoint a person to serve as the executive director of the commission and who shall be subject to the commission's supervision. The commission shall appoint an interim executive director within ten days of the commission's initial meeting who shall be exempt from paragraphs (3) and (4) such that the interim executive director may be a current public employee or regulator official from a similar body in another state who temporarily undertakes the role of interim executive director. The executive director shall:

(1) Hold office at the will of the commission;

(2) Be exempt from chapters 76 and 89;

(3) Devote full time to the duties of the office;

(4) Not hold any other office or employment;

(5) Perform any and all duties that the commission assigns; and
(6) Receive an annual salary at an amount set by the commission, and shall be reimbursed for expenses actually and necessarily incurred in the performance of the executive director's duties.

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

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

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

(A) Is an elected state official;

(B) Is licensed by the commission pursuant to this chapter or is an official of, has a financial interest in, or has a financial relationship with, any gaming operation subject to the jurisdiction of this commission pursuant to this chapter;
(C) Is related to any person within the second degree of consanguinity or affinity who is licensed by the commission pursuant to this chapter; or

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

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

(k) The commission shall adopt rules in accordance with chapter 91 establishing a code of ethics for its employees that shall include restrictions on which employees are prohibited from participating in or wagering on any casino game or casino gaming operation subject to the jurisdiction of the commission. The code of ethics shall be separate from and in addition to any standards of conduct set forth pursuant to chapter 84.
§ 4 Staff. (a) The executive director shall keep records of all proceedings of the commission and shall preserve all records, books, documents, and other papers belonging to the commission or entrusted to its care relating to casino gaming.

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

§ 5 Powers of the commission. (a) The commission shall have all powers necessary to fully and effectively supervise all casino gaming operations, including the power to:

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

(2) Issue a twenty-year gaming license to operate an integrated resort pursuant to this chapter;
(3) Determine the types and numbers of occupational and
supplier's licenses to be permitted under this
chapter;

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

(5) Provide for the collection of all taxes imposed
pursuant to this chapter, and to collect, receive,
expend, and account for all revenues, including lease
payments, derived from casino gaming;

(6) Enter at any time without a warrant and without notice
to a gaming licensee, the premises, offices,
integrated resort, or other places of business of a
gaming licensee, or supplier licensee, where evidence
of the compliance or noncompliance with this chapter
or rules is likely to be found. Entry is authorized
to:

(A) Inspect and examine all premises wherein casino
gaming or the business of gaming or the business
of a supplier is conducted, or where any records
of the activities are prepared;
(B) Inspect, examine, audit, impound, seize, or assume physical control of, or summarily remove from the premises all books, ledgers, documents, writings, photocopies or correspondence records, videotapes, including electronically or digitally stored records, money receptacles other containers and their contents, equipment in which the records are stored, or other gaming related equipment and supplies on or around the premises, including counting rooms;

(C) Inspect the person, and inspect, examine, and seize personal effects present in an integrated resort licensed under this chapter, of any holder of a licensed integrated resort; and

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

(7) Investigate alleged violations of this chapter and to take appropriate disciplinary action against a gaming licensee or a holder of an occupational or supplier license for a violation, or institute appropriate legal action for enforcement, or both;
(8) Be present, through its inspectors and agents, any
time gaming operations are conducted in an integrated
resort for the purpose of certifying the gaming
licensee's revenue, receiving complaints from the
public, and conducting other investigations into the
conduct of the casino gaming and the maintenance of
the equipment as from time to time the commission may
dea mine necessary and proper;

(9) Adopt appropriate standards for an integrated resort
as well as for electronic or mechanical gaming
devices;

(10) Require that records including financial or other
statements of a gaming licensee under this chapter be
kept in the manner prescribed by the commission and
that a licensee involved in the ownership or
management of casino gaming operations submit to the
commission an annual balance sheet and profit and loss
statement, a list of the stockholders or other persons
having a five per cent or greater beneficial interest
in the gaming activities of the licensee, and any
other information the commission deems necessary to
effectively administer this chapter;
(11) Conduct hearings, issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, and other pertinent documents, and to administer oaths and affirmations to the witnesses, when, in the judgment of the commission, it is necessary to administer or enforce this chapter. The executive director or the executive director's designee may issue subpoenas and administer oaths and affirmations to witnesses;

(12) Eject or exclude, or authorize the ejection or exclusion of, any person from an integrated resort where the person is in violation of this chapter or where the person's conduct or reputation is such that the person's presence within the integrated resort, in the opinion of the commission, may call into question the honesty and integrity of the gaming operation or interfere with the orderly conduct thereof or any other action that, in the opinion of the commission, is a detriment or impediment to the gaming operations; provided that the property of that ejection or exclusion shall be subject to subsequent hearing and determination by the commission;
(13) Permit a gaming licensee of casino gaming operations to use a wagering system whereby wagerers' money may be converted to tokens, electronic cards, or chips, which shall be used only for wagering within the integrated resort;

(14) Suspend, revoke, or restrict licenses, to require the removal of a licensee or an employee of a licensee for a violation of this chapter or a commission rule, or for engaging in a fraudulent practice;

(15) Impose and collect fines against a licensee for each violation of this chapter, any rules adopted by the commission, or for any other action which, in the commission's discretion, is a detriment or impediment to casino gaming operations;

(16) Establish minimum levels of insurance to be maintained by a licensee;

(17) Delegate the execution of any of its powers for the purpose of administering and enforcing this chapter; and

(18) Adopt rules pursuant to chapter 91 to implement this chapter.
(b) Rules adopted under this chapter shall not be arbitrary, capricious, or contradictory to the provisions of chapter 91. Rules may include but need not be limited to rules that:

1. Govern, restrict, approve, or regulate the casino gaming authorized in this chapter;
2. Promote the safety, security, and integrity of casino gaming authorized in this chapter;
3. License and regulate, consistent with the qualifications and standards set forth in this chapter, persons participating in or involved with casino gaming authorized in this chapter; and
4. Authorize any other action that may be reasonable or appropriate to enforce this chapter and rules adopted under this chapter.

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

§ -6 Member, employee, or agent of commission; conduct generally. (a) By January 31 of each year, each member of the commission shall prepare and file with the commission a disclosure form in which the member shall:
(1) Affirm that the member or the member's spouse, parent, child, or child's spouse is not a member of the board of directors of, financially interested in, or employed by a licensee or applicant;

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

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

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

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

(1) Affirm the absence of financial interests prohibited by this chapter;

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

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

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

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

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

(e) As used in this section:

"Outside employment" includes the following:

(1) Operation of a proprietorship;

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

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

§  7 Authorization of limited gaming. Casino gaming
shall only be permitted in one integrated resort in Kapolei on
Hawaiian home lands designated for commercial use. Any
application for a gaming license to operate the integrated
resort shall include a development plan for the integrated
resort.

§  8 Gaming license; application; fee. (a) The
application for a gaming license under this chapter shall be
made under oath on forms required by this chapter and shall
include all of the following:
(1) The name, business address, telephone number, social
security number and, where applicable, the federal tax
identification number of the applicant;

(2) The identity of any business, including, if
applicable, the state of incorporation or
registration, in which the applicant has an equity
interest of more than five per cent. If the applicant
is a corporation, partnership or other business
entity, the applicant shall identify any other
corporation, partnership, or other business entity in
which it has an equity interest of more than five per
cent, including, if applicable, the state of
incorporation or registration;

(3) An explanation whether the applicant has developed and
opened a new land-based casino within a jurisdiction
in the United States that previously did not allow
gaming, including a description of the casino, the
casino's gross revenue, and the amount of revenue the
casino has generated for state and local governments
within that jurisdiction;

(4) A statement whether the applicant has been indicted,
convicted, pled guilty or nolo contendere, or
forfeited bail for any felony or for a misdemeanor involving gambling, theft or fraud. The statement shall include the date, the name and location of the court, arresting agency, prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration;

(5) A statement whether the applicant has ever been granted any license or certificate issued by a licensing authority in the State, or any other jurisdiction that has been restricted, revoked, or not renewed. The statement shall describe the facts and circumstances concerning that restriction, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action;

(6) A statement whether the applicant, within the last ten years, has filed or had filed against it a civil or administrative action or proceeding in bankruptcy;

(7) A statement whether the applicant, within the last five tax years, has been adjudicated by a court or tribunal to have failed to pay any final amount of any
income, sales, or gross receipts tax due and payable
under federal, state, or local law, after exhaustion
of all inter-agency appeals processes. This statement
shall identify the amount of the tax, type of tax,
time periods involved, and resolution;

(8) A statement listing the names and titles of all public
officials or officers of any unit of state government
or county government in the jurisdiction in which the
integrated resort is to be located, and the spouses,
parents, and children of those public officials or
officers who, directly or indirectly, own any
financial interest in, have any beneficial interest
in, are the creditors of or hold any debt instrument
issued by, or hold or have an interest in any
contractual or service relationship with, the
applicant. As used in this paragraph, "public
official" or "officer" does not include a person who
would be listed solely because of the person's state
or federal military service;

(9) The name and business telephone number of any
attorney, counsel, or any other person representing an
applicant in matters before the commission;
(10) A description of the applicant's history of, or plan for, community involvement or investment in the area where the integrated resort will be located, particularly noting any experience working with native or indigenous communities; and

(11) A description of any proposed or approved integrated resort, including the economic benefit to the community, especially native or indigenous communities, anticipated or actual number of employees, any statement from an applicant regarding compliance with federal and state affirmative action guidelines, projected or actual admissions, projected or actual gross receipts, and scientific market research, if any.

(12) A clarification of the legal operation of casino games of chance or games of other forms.

(13) The integrated resort license shall not include the following gaming activities:

(A) Online or mobile gaming; and

(B) Games of chance or any other gaming, betting or gambling activities on ships or planes.
(b) Information provided on the application shall be used as the basis for a thorough background investigation that the commission shall conduct with respect to each applicant, but any financial information submitted by each applicant shall be kept confidential by the commission. An incomplete application shall be cause for denial of consideration by the commission and forfeiture of the non-refundable deposit.

(c) Applicants shall submit with their application a plan for training native Hawaiians as defined in the Hawaiian Homes Commission Act for jobs that are available at the integrated resort. The plan shall take into consideration the need to provide training to low-income persons to enable those persons to qualify for jobs that will be created in the integrated resort.

(d) A nonrefundable application fee of one million dollars shall be paid to the commission by an applicant at the time of filing to defray the costs associated with an applicant's background investigation conducted by the commission. If the costs of the investigation exceed one million dollars, the applicant shall pay the additional amount to the commission.

§ 9 Criteria for award of the gaming license; transfer of license prohibited. (a) The commission shall issue one
gaming license to operate an integrated resort to the applicant that has paid the application fee required under section -8, is eligible and suitable to receive a gaming license under this chapter and the rules adopted by the commission, and best satisfies all of the following criteria:

1. The applicant has submitted a development plan for the integrated resort that provides the greatest likelihood that the applicant's facility will provide the maximum revenue to the department of Hawaiian home lands to develop and deliver lands, generate jobs, and provide an economic benefit to native Hawaiians as defined in the Hawaiian Homes Commission Act;

2. The applicant has a history of, or a bona fide plan for, community involvement or investment in the area where the integrated resort will be located, particularly noting any experience working with native or indigenous communities;

3. The applicant has the financial ability to purchase and maintain adequate liability and casualty insurance and to provide an adequate surety bond;

4. The applicant has provided data identifying the applicant's sources of capital and demonstrating that
the applicant has adequate capital to develop,
construct, operate, and maintain the proposed
integrated resort;

(5) The applicant has adequate capitalization to develop,
construct, operate, and maintain for the duration of
the license, the proposed integrated resort in
accordance with the requirements of this chapter and
rules adopted by the commission and to responsibly pay
off its secured and unsecured debts in accordance with
its financing agreement and other contractual
obligations;

(6) The applicant has not been indicted, convicted, pled
guilty or nolo contendere, or forfeited bail for any
felony or for a misdemeanor involving gambling, theft,
or fraud;

(7) The applicant has not filed or had filed against them
a proceeding for bankruptcy within the last ten years;

(8) The extent to which an applicant has, within the last
five tax years, been, adjudicated by a court or
tribunal to have failed to pay any final amount of
income, sales, or gross receipts tax due and payable
under federal, state, or local law, after exhaustion
of all inter-agency appeals processes;

(9) The extent to which the applicant meets other
standards for the issuance of a gaming license that
the commission may have adopted by rule;

(10) To ensure the continued integrity of Hawaii collegiate
athletics, neither the applicant, nor any parent or
subsidiary of the applicant permits wagering on Hawaii
collegiate athletics in any other jurisdiction where
they hold a license;

(11) The adequacy of the applicant's plan for creating
partnerships with the University of Hawaii and
existing educational institutions for training native
Hawaiians as defined in the Hawaiian Homes Commission
Act for jobs, including management positions, that are
available at the integrated resort and the extent to
which the plan considers the need to provide training
to low-income persons to enable those persons to
qualify for jobs that will be created in the
integrated resort; and

(12) The caliber of the proposed integrated resort,
including the proposed integrated resort's aesthetic
appearance, amount of economic benefit to the
community, especially native or indigenous
communities, anticipated or actual number of
employees, compliance with federal and state
affirmative action guidelines, and projected or actual
gross receipts.

(b) An applicant shall be ineligible to receive a gaming
license if the applicant or any employee:

(1) Has been convicted of a felony under the laws of this
State, any other state, or the United States;

(2) Has been convicted of any violation under part III of
chapter 712, or substantially similar laws of another
jurisdiction;

(3) Knowingly submitted an application for a license under
this chapter that contains false information;

(4) Is a member or employee of the commission; or

(5) Has had revoked a license to own or operate gaming
facilities in this State or any other jurisdiction.

(c) To demonstrate financial ability, the applicant may
include the economic resources available directly or indirectly
to the gaming license applicant.
(d) Simultaneous with an applicant's submission of an application, each applicant that is a natural person shall submit to the commission on fingerprint cards issued by the Federal Bureau of Investigation or in digital format two sets of fingerprints for each applicant.

(e) The commission shall establish a process to facilitate and expedite the approval of the necessary licenses and permits for the integrated resort. The commission may establish its own procedures for the issuance of liquor licenses for any holder of a gaming license under this chapter and the holder of a gaming license shall not be subject to any requirement of the Honolulu liquor commission as to the approval of forms of live/professional music, dancing, and entertainment; provided that all other state laws and county ordinances relating to liquor are met. The commission shall be the receiving agency for any environmental assessment required under chapter 343.

(f) Once issued, the gaming license issued pursuant to this chapter shall be nontransferable and shall be valid only for the person or entity in whose name it was issued and for the operation of the integrated resort in Kapolei on Hawaiian home lands designated for commercial use.
§ -10 Purpose of the gaming license. The gaming licensee shall have the following obligations:

(a) Ensure the proper operation and conduct of casino games of chance or games of other forms;

(b) Manage and conduct gaming activities that are licensed by the commission;

(c) Operate and conduct casino games of chance or games of other forms in a fair and honest manner without criminal influence;

(d) Employ staff that have the appropriate qualifications;

(e) Safeguard and ensure the department of Hawaiian homelands and the State of Hawaii's interests in land lease and tax revenue from the operation of the integrated resort.

§ -11 Applicability of Hawaii law. (a) The integrated resort property and licensee shall be exclusively governed by the laws of the state of Hawaii.

(b) The integrated resort with the gaming license recognizes and accepts the exclusive jurisdiction of the court of the state of Hawaii in case of any potential dispute or conflict of interests.

(c) The integrated resort with the gaming license must comply with applicable laws of the state of Hawaii and waives
the right to apply regulations of a place other than Hawaii
which exempt the licensee from performing obligations or acts
that must be performed or are imposed.

§ -12 Participation in the operation of gambling in
other jurisdictions. (a) The integrated resort with the gaming
license must inform the commission of its participation in the
operation of casino games of chance or games of other forms in
any other jurisdictions, including participation in the
operation through a management contract, or of such intent. If
the licensee is aware that any of its directors or controlling
shareholders, or any shareholder that directly or indirectly
holds the equivalent of five per cent or more of its share
capital has the intent to participate in the operation of casino
games or games or other forms in any other jurisdictions, the
licensee must inform the commission immediately.

(b) For the purpose of this section, the licensee must
submit to the commission or procure to obtain and submit to the
commission, as the case may be, any documents, information or
materials that may be requested, except those which are
considered as confidential by law.

§ -13 Supplier’s licenses. (a) No person shall furnish
equipment, devices, or supplies to the licensed integrated
resort under this chapter unless the person has first obtained a
supplier's license pursuant to this section. The commission may
issue a supplier's license to any person, firm, or corporation
who pays a nonrefundable application fee as set by the
commission upon a determination by the commission that the
applicant is eligible for a supplier's license and upon payment
by the applicant of a license fee, the amount to be set by the
commission and adjusted to market conditions from time to time.
Supplier's licenses shall be renewable annually upon payment of
the annual license fee and a determination by the commission
that the licensee continues to meet all of the requirements of
this chapter.

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

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

(d) A person, firm, or corporation shall be ineligible to
receive a supplier's license if:
(1) The person has been convicted of a felony under the laws of this State, any other state, or the United States;

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

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

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

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

(6) The firm or corporation employs a person, defined in paragraph (1), (2), (3), or (4), that participates in the management or operation of casino gaming authorized under this chapter; or

(7) The license of the person, firm, or corporation issued under this chapter, or a license to own or operate casino gaming facilities in any other jurisdiction, has been revoked.

(e) A supplier shall:
(1) Furnish to the commission a list of all equipment, devices, and supplies offered for sale or lease in connection with games authorized under this chapter;

(2) Keep books and records for the furnishing of equipment, devices, and supplies to casino gaming operations separate and distinct from any other business that the supplier might operate;

(3) File quarterly returns with the commission listing all sales and leases;

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

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

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

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

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

(2) A determination by the commission that the applicant is eligible for an occupational license; and
(3) Payment of an annual license fee in an amount set by
the commission.

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

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

(2) Not have been convicted of a felony offense in any
jurisdiction or a crime involving dishonestly or moral
turpitude; and

(3) Have met standards for the holding of an occupational
license as provided in rules adopted by the
commission, including background inquiries and other
requirements.

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

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

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

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

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

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

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

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

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

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

(1) For any violation of this chapter;

(2) For any violation of the rules of the commission;

(3) For any cause which, if known to the commission, would have disqualified the applicant from receiving a license;

(4) For default in the payment of any obligation or debt due to the State or the county; or

(5) For any other just cause.

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

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

§ 15 Temporary supplier and occupational licenses. (a) Upon written request of a person applying for a supplier or occupational license under this chapter, the executive director shall issue a temporary license to the applicant and permit the
applicant to undertake employment with, conduct business
transactions with, and provide goods and services to licensees,
gaming license applicants, and holders of certificates of
suitability; provided that all of the following provisions are
met.

(1) The applicant has submitted to the commission a
completed application, an application fee, and all
required disclosure forms and other required written
documentation and materials;

(2) Preliminary review of the application and a criminal
history check by the executive director and the
commission staff does not reveal that the applicant or
the applicant's key persons, local and regional
managerial employees or sales and service
representatives, or substantial owners have been
convicted of a felony or misdemeanor that would
require denial of the application or may otherwise be
ineligible, unqualified, or unsuitable to permit
licensure under this chapter; and

(3) There is no other apparent deficiency in the
application that may require denial of the
application.
(b) A temporary license issued under this section shall be
valid for not more than one hundred and eight days, but may be
renewed upon expiration by the executive director.

(c) An applicant who receives a temporary license under
this section may undertake employment with or supply a gaming
licensee, gaming license applicants, and holders of certificates
of suitability with goods and services subject to this chapter
until a license is issued by the commission pursuant to the
applicant's application or until the temporary license expires
or is suspended or revoked. During the period of the temporary
license, the applicant shall comply with this chapter and rules
adopted by the commission.

(d) If the temporary license expires, is not renewed, or
is suspended or revoked, the executive director shall
immediately forward the applicant's application to the
commission for action after first providing a reasonable time
for the applicant to correct any apparent deficiency in its
application.

§ 16 Annual report. The commission shall submit a
written annual report to the governor, the legislature, and the
Hawaiian homes commission at least sixty days prior to the close
of each fiscal year and shall submit any additional reports that
the governor, the legislature or the Hawaiian homes commission requests. The annual report shall include:

(1) A statement of receipts and disbursements related to the integrated resort pursuant to this chapter;

(2) Actions taken by the commission; and

(3) Any additional information and recommendations that the commission may deem valuable or which the governor, the legislature, or the Hawaiian homes commission may request.

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

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

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

(1) The site of the integrated resort shall be restricted
to Kapolei on Hawaiian home lands designated for
commercial use;

(2) The term of the gaming license shall be twenty years
and shall be renewable for additional twenty-year
terms; provided that:

(A) The integrated resort met or exceeded its
commitment to provide lease payments and revenue
to the department of Hawaiian home lands to
develop and deliver lands, generate jobs, and
provide an economic benefit to native Hawaiians
as defined in the Hawaiian Homes Commission Act;
(B) The gaming licensee's actions have not caused the
gaming license under this chapter to be suspended
or revoked; and

(C) The applicant remains eligible and suitable for a
gaming license;

(3) The integrated resort may operate twenty-four hours
per day, each and every day of the year, subject to
market conditions;

(4) Minimum and maximum wagers on games shall be set by
the gaming licensee with guidance and oversight
through regulations by the commission;

(5) The commission's agents may enter and inspect the
integrated resort at any time for the purpose of
determining whether the gaming licensee is in
compliance with this chapter;

(6) Commission employees shall have the right to be
present in an integrated resort under the control of
the gaming licensee;

(7) Gaming equipment and supplies customarily used in
conducting casino gaming shall be purchased or leased
only from suppliers licensed under this chapter;
(8) Persons licensed under this chapter shall permit no form of wagering on games except as permitted by this chapter;

(9) Wagers may be received only from a person present in an integrated resort. No person present in an integrated resort shall place or attempt to place a wager on behalf of another person who is not present in the integrated resort;

(10) No person under age twenty-one shall be permitted in an area of the integrated resort where casino gaming is being conducted, except for a person at least eighteen years of age who is an employee of the integrated resort. No employee under age twenty-one shall perform any function involved in casino gaming by patrons. No person under age twenty-one shall be permitted to make a wager under this chapter;

(11) All tokens, chips, or electronic cards used to make wagers shall only be purchased from the gaming licensee within the integrated resort. The tokens, chips, or electronic cards shall be used while within the integrated resort only for the purpose of making wagers on authorized games;
(12) Prior to commencing gaming operations at the integrated resort, the gaming licensee shall enter into a development agreement with the department of Hawaiian home lands, which will include at least the following terms:

(A) The selected licensee agrees to invest at least $50,000,000 to develop and construct an integrated resort on the site selected by the department of Hawaiian home lands;

(B) The selected licensee agrees to create partnerships with local educational institutions to train native Hawaiians as defined in the Hawaiian Homes Commission Act for jobs that are available in the integrated resort;

(C) The gaming licensee agrees that neither the gaming licensee, nor any parent or subsidiary of the gaming licensee, will permit wagering on Hawaii collegiate athletics regardless of its legality in other jurisdictions where the licensee operates;
(D) All revenue under the development agreement, shall be deposited into the department of Hawaiian home administration account;

(E) The gaming licensee and the State agree that, other than the one integrated resort licensed under this chapter, the State shall not authorize any additional gaming in the State during the initial 20-year license period; and

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

§ 19 Prohibition on credit agreements. Notwithstanding any other law to the contrary, the gaming licensee will not be permitted to offer credit to a wagerer.

§ 20 Wagering tax; rate; disposition. A wagering tax shall be imposed on the gross gaming revenues of the licensee at the rate of forty-five per cent. Tax revenues collected under this section shall be divided in the following way: seventy-five per cent directed to the Hawaiian home operating fund; five per cent directed to the Native Hawaiian rehabilitation fund; fifteen per cent deposited into the state general fund; five per cent deposited into the state gaming fund.
§ -21 State gaming fund; disposition of taxes collected.

There is established within the state treasury the state gaming fund to be administered by the Hawaii gaming commission into which shall be deposited all fees, taxes, and fines collected under this chapter. Moneys from the state gaming fund may be used to fund:

1. A compulsive gamblers program and for public security at the integrated resort;
2. Local educational institutions to train native Hawaiians as defined in the Hawaiian Homes Commission Act for jobs that are available in the integrated resort;
3. Road or other improvements to address any traffic issues as a result of the integrated resort; and
4. Administrative expenses of the commission.

§ -22 Legislative oversight. After the first full fiscal year of operation, the auditor shall conduct a program and financial audit of the Hawaii gaming commission.

Thereafter, the auditor shall conduct a program and financial audit every four years after the initial audit is completed.

§ -23 Disclosure of information. The commission, upon written request from any person, shall provide the following
information concerning the applicant or licensee, the applicant's or licensee's products, services or gambling enterprises, and the applicant's or licensee's business holdings if the commission has the information in its possession:

(1) The name, business address, and business telephone number;

(2) An identification of any applicant or licensee including, if an applicant or licensee is not an individual, its state of incorporation or registration, and its corporate officers;

(3) The name and business telephone number of any attorney, counsel, lobbyist, or any other person representing an applicant or licensee in matters before the commission; and

(4) A description of the product or service to be supplied by, or occupation to be engaged in by, a licensee.

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

"§712-____ Casino gaming; exempted. This part shall not apply to casino gaming as authorized by chapter____."

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SECTION 4. Section 46-80.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Exemptions.

(1) Property owned by the state or county governments or entities, may be exempt from the assessment except as provided in paragraph (3);

(2) Property owned by the federal government or entities, shall be exempt from the assessment except as provided in paragraph (3);

(3) If a public body owning property, including property held in trust for any beneficiary, which is exempt from an assessment pursuant to paragraphs (1) and (2), grants a leasehold or other possessory interest in the property to a nonexempt person or entity, the assessment, notwithstanding paragraphs (1) and (2), shall be levied on the leasehold or possessory interest and shall be payable by the lessee;

(4) The construction of any integrated resort or gaming facility in Kapolei on Hawaiian home lands designated for commercial use authorized under chapter shall be exempt from the assessment and any special
improvement district requirements regarding
redevelopment authorized by subsection (a);}

[(4)–] (5) The redevelopment of the Ala Wai boat harbor
shall be exempt from the assessment and any special
improvement district requirements authorized by
subsection (a); and

[(5)–] (6) No other properties or owners shall be exempt
from the assessment unless the properties or owners
are expressly exempted in the ordinance establishing a
district adopted pursuant to this section or amending
the rate or method of assessment of an existing
district."

SECTION 5. There is appropriated out of the Hawaiian home
trust fund the sum of $5,000,000 or so much thereof as may be
necessary for fiscal year 2022-2023 for the purpose of funding
the operations of the Hawaii gaming commission; provided that
the:

(1) Gaming licensee shall reimburse the amount
appropriated by remitting $5,000,000 to the department
of Hawaiian home lands no later than the first day on
which the casino opens for operation; and

(2) Gaming licensee’s application fee under section
-8(e), Hawaii Revised Statutes, shall be applied
as a credit against the $5,000,000 amount due under
this section.

The sum appropriated shall be expended by the department of
Hawaiian home lands for the purposes of this Act.

SECTION 6. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2021;
provided that section 5 shall take effect on July 1, 2022.

INTRODUCED BY:__________________________

BY REQUEST
Report Title:
Limited Casino Gaming; Single Integrated Resort; Kapolei; Appropriation

Description:

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